With respect to such amendment, the following proceedings took place:[1]

> MR. [SAM] HOBBS [of Alabama]: Mr. Chairman, I make a point of order against the amendment that it is not germane to that section of the bill or those sections of the bill to which it is addressed nor to any section of the bill. . . .
>
> THE CHAIRMAN:[2] . . . The Chair is of the opinion that the amendment offered by the gentleman from California is in no way related to the provisions of the pending bill; that is, in no way related so as to make the amendment germane in accordance with and under the rules of the House. The amendment relates to the franchise of the voters in the several States, and the bill under consideration so far as the Chair can observe, and the Chair has read it carefully, in no way enters that field. For the reasons stated, and principally and wholly upon the ground that the amendment is not related to the bill under consideration, and wholly eliminating the constitutional question or any other question, the Chair holds that the amendment is not germane, and sustains the point of order.

§ 4. Committee Jurisdiction of Subject Matter as Test

In ruling on the germaneness of amendments to bills, the Chair has frequently considered whether the subject matter of the amendment falls within the jurisdiction of the committee reporting the bill. Thus, in some cases, lack of such committee jurisdiction may at the outset cause the Chair to uphold a point of order against the amendment. On the other hand, in other cases, even the fact that a subject has in fact been considered by a committee during its markup of a particular bill does not determine the germaneness of an amendment concerning such subject when offered on the House floor.[3]

The fact that an amendment is offered in conjunction with a motion to recommit the bill with instructions does not affect the requirement that the subject matter of the amendment be within the jurisdiction of the committee reporting the bill.[4]) Committee jurisdiction of a subject is not necessarily determinative on questions of germaneness, however; the modern tendency seems to be to view such jurisdiction as but one factor in the determination of the germaneness of amendments.

In particular, Committee jurisdiction is not determinative as a test of germaneness of an amendment, where the text to which it is

1. *Id.* at pp. 9455, 9456.

2. John W. McCormack (Mass.).

3. See § 8.16, infra.

4. See § 23.3, infra.

offered already contains matter that overlaps the jurisdiction of several committees, particularly where the amendment does not demonstrably affect a law within another committee's jurisdiction.[5]

Besides the germaneness rule, amendments on the House floor may be precluded by Rule XXI, clauses 5(a) and 5(b). The first of these clauses prohibits the offering of appropriations to bills reported by committees other than the Committee on Appropriations. Rule XXI, clause 5(b), as added in the 98th Congress, prohibits a tax or tariff measure from being offered as an amendment to a bill reported from a committee not having jurisdiction over those measures.[6]

The Chairman of the Committee of the Whole may determine the germaneness of an amendment based upon the discernible committee jurisdictions over the subject of the bill and amendment without infringing upon the Speaker's prerogatives under Rule X to determine committee jurisdiction over introduced legislation.[7]

Bill Authorizing Environmental Research and Development by Environmental Protection Agency—Amendment Granting Permanent Regulatory Authority to Agency

§ 4.1 To a bill authorizing environmental research and development by an agency for two years, an amendment granting permanent regulatory authority to that agency by amending a law not being amended by the bill and not within the jurisdiction of the committee reporting the bill is not germane.

On June 4, 1987,[8] the Committee of the Whole had under consideration H.R. 2355, the Environmental Research and Development Authorization for fiscal 1988 and 1989, reported from the Committee on Science, Space and Technology. The bill had as its purpose the authorization of environmental research and development programs. An amendment was offered which sought to amend the Clean Air Act, a law not amended by the bill and one

5. § 4.18, infra.

6. See § 4.61, infra.

7. See the remarks of Chairman McHugh, of New York, during proceedings relating to H.R. 3603, the Food and Agriculture Act of 1981, discussed in § 4.71, infra. A point of order arising from apparent lack of committee jurisdiction over the subject matter of the provisions in question should be based explicitly on the issue of germaneness, rather than on the mere existence of the possible jurisdictional defect, which without more may be deemed not to state a proper point of order. See § 43.8, infra.

8. 133 CONG. REC. 14739, 14753–55, 14757, 100th Cong. 1st Sess.

that was within the jurisdiction of the Committee on Energy and Commerce. The amendment, moreover, sought to provide new regulatory authority for the agency that was to conduct the research and development programs.

The Clerk read as follows:

H.R. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

section 1. short title.

This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1987".

sec. 2. general authorizations.

(a) Environmental Research, Development, and Demonstration.—There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development and demonstration activities, the following sums: . . .

(9) $55,866,600 for fiscal year 1988 for energy activities of which not more than $52,331,100 shall be for acid deposition research, and $56,216,900 for fiscal year 1989 for energy activities of which not more than $56,611,900 shall be for acid deposition research. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 12, after line 22, insert the following new section:

sec. 8. acid deposition control.

Title I of the Clean Air Act is amended by adding the following new part at the end thereof:

"PART E—ACID DEPOSITION CONTROL

"sec. 181. emissions from utility boilers.

"(a) State Plans to Control Emissions.—Not later than one year after the enactment of this section, the Governor of each State shall submit to the Administrator a plan establishing emission limitations and compliance schedules for controlling emissions of sulfur dioxide and oxides of nitrogen from fossil fuel fired electric utility steam generating units in the State. The plan shall meet the requirements of subsections (b) and (c). . . .

"sec. 185. fees.

"(a) Imposition.—Under regulations promulgated by the Administrator, the Administrator may impose a fee on the generation and importation of electric energy. Such fee shall be established by the Administrator at such level (and adjusted from time to time) as will ensure that adequate funds are available to make interest subsidy payments in the amount authorized under section 187. . . .

sec. 102. revisions of new source performance standards for control of nitrogen oxide emissions.

Section 111 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(k) . . . The Administrator shall revise the standards of performance for emissions of nitrogen oxides from electric utility steam generating units which burn bituminous or subbituminous coal. . . .

Mr. Robert A. Roe, of New Jersey, made a point of order:

MR. ROE: . . . On the point of order, Mr. Chairman, the committee feels that the amendment as drafted by the gentleman from Vermont [Mr. Jeffords] has a regulatory purpose which goes beyond the R&D programs authorized by this bill. And for this reason the amendment is not germane. . . .

MR. JEFFORDS: Mr. Chairman, I would like to point out that section 2 of this bill states as follows, the first sentence after the title of section A: "There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development and demonstration activities the following sums" and it delineates the amounts of those sums. Some of those are for activities which are authorized under the Clean Air Act. So we have money authorized here. The amendment I have will use little or no funds of those. There is nothing in here that says it is prohibited from using those funds. The amendment that I offered and as I say has no budgetary impact in addition to what is already authorized under this bill, it provides for the development of State plans to take care of the problems of acid rain. It authorizes studies which are research programs. It also authorizes development programs to control the emissions consistent with the Clean Air Act by amending the Clean Air Act to do that, both for stationary sources and mobile sources and also authorizes certain field experiments.

I believe it is well within the authority that is gathered and given by this bill which is a bill of general nature within the areas being authorized. So I feel it is well within the jurisdiction of the committee, there is no question about that and I believe it is germane.

THE CHAIRMAN:[9] . . . [T]he Chair is prepared to rule.

The Chair is ruling that the gentleman's amendment, the gentleman from Vermont, amends a law that does not come within the jurisdiction of the Committee on Science, Space, and Technology. In addition, the pending bill is research and development legislation and the gentleman concedes that he not only addresses a research issue, but addresses regulation regarding acid rain that is outside the jurisdiction of the committee reporting the pending bill.

The gentleman from New Jersey's point of order is sustained.

Bill Authorizing Environmental Research by Agency—Amendment Expressing Sense of Congress as to Agency's Enforcement Activities

§ 4.2 To a bill reported from the Committee on Science and Technology authorizing environmental research and development activities of an agency for two years, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement activity—a matter within the jurisdiction of the Committee on Energy and Commerce—was held not germane.

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9. Nick J. Rahall, II (W. Va.).

On Feb. 9, 1984,[10] during consideration of H.R. 2899, the Chair sustained a point of order against an amendment as not being germane to the bill. The section of the bill, the amendment which was offered and the proceedings attendant thereto were as follows:

Sec. 2 (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $61,380,000 for fiscal year 1984 and $64,449,000 for fiscal year 1985 for activities authorized under the Clean Air Act . . .

(g) No funds authorized for appropriation pursuant to this Act may be used for any activities other than those authorized by this Act. . . .

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 7, after line 15, insert the following new subsection:

Sec. It is the sense of the Congress that, in the process of selecting hazardous waste sites and the placement of hazardous waste materials, the Environmental Protection Agency shall give priority to full cooperation with local citizens groups who are trying to protect and preserve the environmental quality of their communities.

MR. [JOHN D.] DINGELL [of Michigan]: . . . The amendment is a sense-of-Congress resolution, in a sense, that the Environmental Protection Agency will give priority to full cooperation with local citizen groups who are trying to protect and preserve the environmental quality of their communities.

Now, this is an unexceptionable section. . . .

But I observe that it does not belong in this particular legislation, nor does it belong in the particular place where it is offered.

Provisions relative to Superfund research were just stricken, but those were provisions relative to Superfund research and not with regard to any sense of Congress or sense of Congress instruction to the Environmental Protection Agency.

The rules of the House require that the language of the amendment must be germane to the bill and germane to the portion of the bill to which it is offered. It must seek to do the same thing by the same purposes.

One of the tests of the amendment for germaneness, but only one, is that the rules of the House require or, rather, have as a test that the jurisdiction to which the measure would be referred is one of the criterion that is used by the Chairman in determining whether or not the matter is germane. . . .

I observe that the fundamental purposes of the bill are different than the fundamental purposes of the amendment, as are the fundamental purposes of the sections immediately before or immediately after that.

It is clear that were this language offered to the bill it might conceivably go to quite a different committee than that which is now handling the legisla-

10. 130 CONG. REC. 2421, 2427, 2428, 98th Cong. 2d Sess.

tion on the floor. And for that reason, Mr. Chairman, I do insist on my point of order. . . .

MR. WALKER: . . . The gentleman from Pennsylvania would be loath to interfere in the jurisdictional areas of the gentleman from Michigan, but I would suggest to the Chair that this amendment does not at all. This amendment is, in fact, directed at the Environmental Protection Agency, the exact agency which is covered by this bill.

It is merely a sense of Congress resolution. It requires no new duties of the Environmental Protection Agency. It has no obligations upon this Congress or upon the House.

It is strictly a matter of expressing our will with regard to a matter of some importance in the whole matter of hazardous waste, and I suggest to the Chair that the matter is entirely germane in this bill that speaks purely to the agency to which the amendment is directed.

THE CHAIRMAN:[11] The Chair has heard both the gentleman from Michigan (Mr. Dingell) and the gentleman from Pennsylvania (Mr. Walker).

However, the Chair is going to rule that because this bill, although open to amendment at any point, is limited to authorizing appropriations to environmental research, development, and demonstration for the fiscal years 1984 and 1985 regarding the Environmental Protection Agency, that the particular amendment introduced by the distinguished gentleman from Pennsylvania (Mr. Walker) has to do with the selection of hazardous waste sites and their regulation, indicating that it is the sense of Congress that in the process of selecting hazardous waste sites and the placement of hazardous waste waters, the EPA shall give certain priorities. The Chair does sustain the point of order of the gentleman from Michigan that the particular amendment by the distinguished gentleman from Pennsylvania is not indeed germane to this bill.

11. Carroll Hubbard, Jr. (Ky.).

Bill Amending Federal Water Pollution Control Act—Amendment To Amend Clean Air Act

§ 4.3 To a bill reported from the Committee on Public Works and Transportation amending the Federal Water Pollution Control Act, an amendment amending the Clean Air Act (a statute within the jurisdiction of the Committee on Energy and Commerce) to regulate "acid rain" by controlling emissions into the air was held not germane as amending a law and dealing with a subject within the jurisdiction of another committee.

On July 23, 1985,[12] during consideration of the Water Quality Renewal Act of 1985,[13] the Chair sustained a point of order against

12. 131 CONG. REC. 20041, 20050–52, 99th Cong. 1st Sess.

13. H.R. 8.

the amendment described above. The proceedings were as follows:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 113, after line 13, insert the following new title:

TITLE II—ACID DEPOSITION CONTROL

section 1. short title.

This title may be cited as the "Water Quality Improvement and Acid Deposition Reduction Act of 1985".

sec. 2. purpose.

The purpose of this Act is to improve water quality, protect human health and preserve aquatic resources in the United States by reducing the threat of acid deposition.

Subtitle I—Acid Deposition Control and Assistance Program

sec. 101. amendment of clean air act.

Title I of the Clean Air Act is amended by adding the following new part at the end thereof:

"PART E—ACID DEPOSITION CONTROL

"SUBPART 1—GENERAL PROVISIONS

"sec. 181. purpose of part.

"The purpose of this part is to decrease sulfur dioxide emissions in the 48 contiguous States by requiring certain electric utility plants and other sources to reduce their rates of sulfur dioxide emissions. The reduced rates shall be rates which (if achieved by those sources in the emissions baseline year) would have resulted in total emissions from such sources 12,000,000 tons below the actual total of sulfur dioxide which those sources emitted in the emissions baseline year. The reduction is to be achieved within 10 years after the date of the enactment of this part. Such reduction shall be achieved through—

"(1) a program under subpart 2 consisting of direct federally mandated emission limitations for 50 of the largest emitters of sulfur dioxide. . . .

MR. [M.G.] SNYDER [of Kentucky]: . . . The amendment which the gentleman offers is not germane. It is, with minor changes, substantially that embodied in H.R. 1030, which the gentleman introduced on February 7, 1985. The purpose of that bill was to decrease sulphur dioxide emissions by requiring certain electric utilities plants and other sources to reduce their rates of emissions. Since the bill made extensive amendments to the Clean Air Act, it was referred solely to the Committee on Energy and Commerce, who have jurisdiction of this matter.

Today we have almost identical provisions before us embodied in Mr. Conte's amendment which are far beyond the scope of the bill we are now considering, H.R. 8, and deal with the subject properly within the jurisdiction of another committee, that is, the Committee on Energy and Commerce.

The scope of H.R. 8 is limited to the Clean Water Act and does not include extensive amendments to the Clean Air Act as the gentleman has proposed. . . .

MR. CONTE: . . . Mr. Chairman, the amendment I feel is germane to the committee amendment. It deals with the same subject matter as contained in the bill.

For example, the committee amendment includes a program to address the acidification of this Nation's lakes. If implemented, this amendment would accomplish the same goal by controlling the source of this acidity. Also, the bill, as a whole, is concerned with the protection and improvement of water quality in this country. And this amendment directly addresses the protection of water quality by controlling acid rain.

For these reasons, the amendment is in order and germane to the bill. . . .

MR. [HOWARD C.] NIELSON of Utah: . . . The Public Works and Transportation Committee does have water pollution, but they do not have air pollution; they do not have air quality in their committee.

As the gentleman from Kentucky appropriately stated, this is the exclusive province of the Committee on Energy and Commerce and the Health and Environment Subcommittee of that committee. . . .

THE CHAIRMAN:[14] It is the ruling of the Chair that the amendment changes a law not amended in the pending bill and outside the jurisdiction of the reporting committee, and deals with the regulation of emissions not within the scope of the bill.

For that reason, the amendment is not german.

Bill Authorizing National Standards for Drinking Water—Amendment To Require International Agreements Relating to Drinking Water

§ 4.4 To a bill reported from the Committee on Interstate and Foreign Commerce, authorizing the promulgation of national drinking water standards to protect public health from contaminants, an amendment requiring the negotiation and enforcement of international agreements to accomplish that purpose was held to be not germane, since it proposed a method not closely related to that prescribed in the bill and involved a subject within the jurisdiction of another committee.

The proceedings of Nov. 19, 1974, relating to H.R. 13002, the Safe Drinking Water Act, are discussed in § 6.25, infra.

Provisions Temporarily Suspending Requirements of Clean Air Act—Amendment Prohibiting Federal Assistance Under Water Pollution Control Act

§ 4.5 To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment prohibiting federal assistance under that Act or under the Federal Water Pollution Control Act (within the jurisdiction of a different House committee) where there has been failure to comply with

14. Harry M. Reid (Nev.).

standards imposed by the amendment was held to be not germane.

On May 1, 1974,[15] during proceedings relating to H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, the Committee of the Whole was considering an Interstate and Foreign Commerce Committee amendment in the nature of a substitute amending several sections of the Clean Air Act to permit limited variances from environmental requirements, including the temporary suspension of certain emission standards imposed upon automobile manufacturers. An amendment was offered which sought to impose restrictions on emissions, only for new automobiles, in designated geographical areas, through requirements affecting the manufacture, purchase, and registration of automobiles. The amendment also sought to withdraw state entitlements to federal assistance under the Clean Air Act or under the Federal Water Pollution Control Act. The latter act was within the jurisdiction of the Committee on Public Works. The amendment in the nature of a substitute, and the proposed amendment thereto, stated in part:

Sec. 4. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as for December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following . . . . The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within sixty days. . . .

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Chairman, I offer an amendment.

15. 120 CONG. REC. 12520, 12522–24, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Wyman: On page 59 insert immediately after line 13 the following: I. TEMPORARY SUSPENSION IN DESIGNATED AREAS

(a) Section 203 of the Clean Air Act (42 U.S.C. 1857f–2) is amended by adding at the end thereof the following new subsection:

"(d)(1) During and after the period of partial suspension of emission standards (as defined in paragraph (3)(A)—

"(A) it shall be unlawful for any person to register within an area designated in paragraph (3)(B) a new motor vehicle or new motor vehicle engine which is manufactured during the period of partial suspension of emission standards and which is not labeled or tagged as covered by a certificate of conformity under this part; and

"(B) no State shall permit any person to register a motor vehicle in violation of subparagraph (A).

"(2) During the period of partial suspension of emission standards . . .

"(B) it shall be unlawful for any manufacturer to sell . . . any new motor vehicle or new motor vehicle engine which is labeled or tagged as covered by a certificate of conformity unless such new motor vehicle or new motor vehicle engine is covered by a certificate of conformity issued (and in effect) under this part, or unless such new motor vehicle or new motor vehicle engine was manufactured prior to the period of partial suspension. . . .

"(E) it shall be unlawful for any dealer to sell any new motor vehicle or new motor vehicle engine which is not labeled or tagged as covered by a certificate of conformity to an ultimate purchaser unless such purchaser provides such dealer with a signed statement that such purchaser will not register such vehicle in an area designated under paragraph (3)(B) . . . .

"(B) Within sixty days after the date of enactment of this subsection and annually thereafter, the Administrator shall designate, subject to the limitations set forth in this subparagraph, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area without subsequent legislative authorization, any part of the United States outside the following air quality control regions as defined by the Administrator as of the date of enactment of this paragraph:

"(i) Phoenix-Tucson, intrastate.

"(ii) Metropolitan Los Angeles, intrastate.

"(iii) San Francisco Bay Area, intrastate. . . .

"(C) For purposes of this subsection and section 209(c) a motor vehicle shall be considered to be registered in a geographic area—

"(i) in the case of a motor vehicle registered by an individual if the individual's principal place of abode is in that area, or

"(ii) in the case of a motor vehicle registered by a person other than an individual, if the State of registration determines that such vehicle will be principally operated in such area.

"(D) Each State shall not later than sixty days following enactment of this Act, submit to the Administrator a plan for implementing subsection (d)(1)(B) of this section. Such plan shall contain provisions which give assurance that such State has one or more adequately financed agencies with sufficient legal authority to enforce such subsection (d)(1)(B) as determined in accordance with regulations of the Administrator.". . .

"(b) If a State fails to submit a plan under section 203(d) or if the Administrator determines (after no-

tice and opportunity for hearing) that such State is not adequately enforcing such a plan, then such State (including any political subdivision thereof) shall lose its entitlement to and may not thereafter receive any Federal grant or loan assistance under this Act or under the Federal Water Pollution Control Act."

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I make a point of order against the amendment. . . . The amendment offered by the gentleman from New Hampshire (Mr. Wyman) is not germane because:

First, it amends sections 203, 204, 205, 206, and 209 of the Clean Air Act, provisions which are nowhere else amended by this bill (H.R. 14368).

Second, it, in effect, amends the Federal Water Pollution Control Act, by providing for termination of State grant eligibility under that act, if the State fails to take certain actions under this amendment. Clearly this is not germane. Moreover, it discusses a subject matter clearly within the jurisdiction of the Public Works Committee.

Third, the bill would limit State authority to register motor vehicles, a subject which is not addressed in this bill in any way. It also deals with Federal and State authority to adopt and enforce provisions relating to in-use vehicles, a subject which is not addressed in this bill in any way. It also deals with grant provisions which are not amended in any way by H.R. 14368. It subjects ultimate purchasers to regulation for the first time under the Clean Air Act and no provision of this bill refers to ultimate purchasers of motor vehicles.

MR. WYMAN: The gentleman is essentially trying to say that an amendment that relates to the standards or emissions controls on automobiles in a time and under a title that relates to clean air is not germane. I think it is so obvious that it is germane that the point of order should be overruled.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The gentleman from West Virginia (Mr. Staggers) makes the point of order that the amendment offered by the gentleman from New Hampshire (Mr. Wyman) is not germane to the committee substitute for H.R. 14368.

The Chair has examined the amendment and is aware that it provides that States shall lose their entitlements to Federal grants under the Clean Air Act and under the Water Pollution Control Act for failure to comply with the provisions of the amendment.

While the committee substitute does amend several sections of the Clean Air Act to permit defined and limited variances from certain diverse provisions of that act, in order to coordinate the questions of energy supplies and environmental protection, the committee substitute does not affect entitlements under the Water Pollution Control Act, a matter within the jurisdiction of the Committee on Public Works.

As recently as December 14, 1973, when the Committee of the Whole was considering the Energy Emergency Act, Chairman Bolling ruled that to a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment suspending other provisions of all other environmental protection laws was not germane.

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16. William Jennings Bryan Dorn (S.C.).

For these reasons, the Chair feels that the amendment is not germane to the committee substitute and sustains the point of order made by the gentleman from West Virginia. .

Bill Authorizing Secretary of Interior To Investigate Water Conservation Projects—Amendments Substituting Corps of Army Engineers as Investigating Agency

§ 4.6 To a bill authorizing the Secretary of the Interior to investigate projects for the conservation and utilization of the water resources of Alaska, an amendment proposing that such investigations be made by the Corps of Army Engineers was held to be not germane.

In the 84th Congress, during consideration of a bill[17] concerned with conservation, development and utilization of the water resources of Alaska, an amendment was offered[18] as described above. A point of order was raised against the amendment, as follows:

MR. [CLAIR] ENGLE [of California]: The point of order is that the amendment is not in order inasmuch as it seeks to insert an entirely different agency into this legislation which deals exclusively with the Department of the Interior.

In defending the amendment, the proponent, Mr. Hamer H. Budge, of Idaho, stated:

Mr. Chairman, it appears to me that the amendment is germane. . . . It carries out the stated purposes of the legislation simply by a substitution of the agency to do the things which are called for in the legislation.

The Chairman,[19] in ruling on the point of order, stated:

The gentleman's amendment substitutes a department of the Government which does not come under the jurisdiction of the Committee on Interior and Insular Affairs, and therefore the Chair must rule that it is out of order.

Parliamentarian's Note: There are many rulings to the effect that the substitution of one agency for another, to administer the terms of a bill, may be germane, depending on whether the actual methods prescribed in the amendment for achieving the intended purpose are closely related to those contemplated by the bill. See § 7, infra, for further discussion.

17. H.R. 3990 (Committee on Interior and Insular Affairs).

16. 101 CONG. REC. 7403, 84th Cong. 1st Sess., June 1, 1955.

19. Chet Holifield (Calif.).

Effect of Incidental Provisions Within Jurisdiction of Another Committee—Bill Authorizing Alaska Pipeline; Judicial Review of Specified Claims Related to Construction as Permitted or Prohibited

§ 4.7 Committee jurisdiction is not the exclusive or absolute test of germaneness but is only one of the factors considered by the Chair when ruling on a point of order that an amendment is not germane; thus, the germaneness of an amendment in the nature of a substitute for a bill depends on its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee.

On Aug. 2, 1973,[20] the Committee of the Whole had under consideration H.R. 9130, a bill authorizing the construction of a trans-Alaska oil and gas pipeline under the authority of the Secretary of the Interior, and pursuant to procedural safeguards promulgated by the Secretary. The bill included a prohibition against judicial review on environmental impact grounds of any right-of-way or permit which might be granted. A committee in the nature of a substitute was reported as an original bill for purposes of amendment. The committee amendment contained procedures and safeguards similar to those in the bill, and included an exception from the prohibition against judicial review, to provide a mechanism for expediting other types of actions challenging pipeline permits. The amendment also included the condition that all persons participating in construction or use of the pipeline be assured rights against discrimination as set forth in the Civil Rights Act. Points of order were raised against the amendment on the grounds that its provisions were not germane:

> THE CHAIRMAN:[1] Pursuant to the rule, the Clerk will now read by title the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.
>
> MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I wish to reserve a point of order to the committee amendment.
>
> The Clerk read as follows: . . .
>
> TITLE I
>
> Section 1. Section 28 of the Mineral Leasing Act of 1920 (41 Stat.

20. 119 CONG. REC. 27673–5, 93d Cong. 1st Sess.

1. William H. Natcher (Ky.).

449), as amended (30 U.S.C. 185), is further amended by striking out the following: ", to the extent of the ground occupied by the said pipeline and twenty-five feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon," and by inserting in lieu thereof the following ": *Provided*, That—

"(a) the width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary finds, and records the reasons for his finding, that in limited areas a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. . . .

Sec. 4. (a) Pipelines on public lands subject to this Act are subject to the provisions of the Gas Pipeline Safety Act of 1968. . . .

(c) The Secretary of the Interior shall report annually to the President, the Congress, the Secretary of Transportation and the Interstate Commerce Commission any potential dangers of or actual explosions or potential or actual spillage on public lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage.

MR. DINGELL: Mr. Chairman, I rise to make a point of order against the committee amendment just read.

THE CHAIRMAN: The Chair will hear the gentleman on his point of order.

MR. DINGELL: Mr. Chairman, I note first that the rule did not waive points of order.

Mr. Chairman, I cite now rule XVI, clause 7, and I note particularly section 794 relating to germaneness which reads as follows:

> And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

I note as follows, Mr. Chairman, that the committee amendment provides for the establishment of a three-judge court and establishes certain conditions with regard to review which are not found in the original bill.

I note for the assistance of the Chair, that that language is not only not found in the bill, but that language, in my view, at least under the Rules of the House of Representatives, had it been introduced as a separate piece of legislation, would have been referred to the Committee on the Judiciary.

I note further, Mr. Chairman, that the committee amendment as presented to us today provides also language relating to conditions of employment and civil rights of persons, and the duty of the pipeline company to hire without discrimination as to race or creed or color.

I note, Mr. Chairman, that legislation relating to that matter, were it introduced as separate legislation, would have properly under the Rules of the House of Representatives have been referred to the Committee on the Judiciary.

I make the further comment with regard to the point of order just raised, Mr. Chairman, citing now Cannon's Precedents, page 203 2(b), and I quote:

> A specific subject may not be amended by a general provision even when of the same class.

Section 203 of the bill addresses itself to the relationship of NEPA to the bill and judicial review of the Sec-

retary of the Interior's actions for compliance with NEPA. Specifically 203(d) of the bill limits judicial review on the basis of NEPA noncompliance.

Section 203(f) which was added by amendment, referred to earlier, is far broader in scope than section 203 as contained in the original bill.

Section 203(f) sets forth a unique procedure for judicial review of non-NEPA-related challenges.

Keeping in mind the fact that section 203(d) is itself part of an amendment and section 203(f) is a new provision as part of the same amendment it becomes clear that judicial review dealt with by section 203 of the original bill was limited to judicial review on the basis of NEPA.

The amendment, by incorporating the provisions found in section 203(f), deals with all forms of judicial review. Thus NEPA-related review is handled by the specific provision of section 203(d) and all other judicial review by section 203(f).

Therefore, the amendment is a general provision; that is, it deals with all forms of judicial review and is not germane to the specific provision found in the original bill which deals solely with judicial review on the basis of the National Environmental Policy Act.

I cite again Cannon's Precedents at page 203. I cite further with regard to the germaneness, now referring to page 202 in Cannon's Precedents that—

> One individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

The individual proposition in the original bill was that the Secretary of the Interior's actions were exempted from judicial review under NEPA.

The individual proposition contained in the amendment goes on to add that any other challenge to the right-of-way to which the United States is a party must be brought, according to subsection (f), to a three-judge district court referred to in the amendment.

These propositions are of the same class because both relate to judicial review.

The first proposition may be viewed as a negative proposition in that it exempts certain action from Judicial review on the basis of NEPA.

The second is a positive proposition; it establishes a special tribunal and special procedures for non-NEPA-based court challenges.

I again refer the Chair to Cannon's Precedents on page 202.

I cite further, Mr. Chairman—

> If a portion of an amendment is out of order because not germane, then all must be ruled out.

I would cite Cannon's Precedents at page 201. I would point out that—

> The burden of proof as to the germaneness of a proposition has been held to rest upon its proponents. . . .

MR. [JOHN] MELCHER [of Montana]: . . . The gentleman from Michigan is raising a point of order on the basis of the germaneness of . . . the entire committee amendment, but he refers to specific sections and his point of order should be limited to his reference to those sections. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Michigan (Mr. Dingell) makes the point of order the

amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs printed in the bill is not germane to the original bill on several grounds, one of which is that 203(f) of the committee amendment provides a procedure for expediting litigation of right-of-way, permit, or other authorization disputes in Federal courts which is not contained in the original bill.

The Chair has had an opportunity to examine the original bill and the committee amendment in the nature of a substitute, and notes that the original bill and the committee amendment both provide comprehensive schemes for the construction of the Alaska pipeline under the authority of the Secretary of the Interior. Both the bill and the committee amendment provide a series of safeguards to be followed by the Secretary in the issuance of permits and grants of rights-of-way. Included in the original bill—in section 203, is the prohibition against judicial review of any authorization granted by any Federal agency with respect to rights-of-way, construction, public land use, or highway or airfield construction on the basis of the National Environmental Policy Act of 1969.

This restriction against judicial review on the basis of environmental impact is also contained in section 203(d) of the committee amendment in a more limited form. Section 203(f) of the committee amendment then provides, in litigation not barred by section 203(d), a mechanism for expediting other actions challenging pipeline permits or authorizations.

On March 8, 1932, Chairman O'Connor ruled that to a bill restricting Federal court jurisdiction in certain cases, an amendment providing an exception from that prohibition was germane—Cannon's volume VIII, section 3024.

The Chair has also examined the decision of the present occupant of the Chair on October 20, 1971 (Congressional Record, page H37079) on the Alaska Native land claims bill, where, to a committee amendment seeking to accomplish a broad purpose by a method less detailed in its provisions, an amendment more definitive but relating to the same purpose implicit in the committee's approach was held germane.

For these reasons, and because committee jurisdiction is not the exclusive or absolute test of germaneness, the Chair is of the opinion that the provision in the committee amendment relating to the expediting of litigation involving the pipeline permits or authorizations is merely incidental to the purpose of the original bill and is indeed directly related to the concept of judicial review contained in the bill. With respect to the other provisions of the committee amendment to which the gentleman from Michigan has made reference, the Chair is of the opinion that they, too, are incidental to the overall purpose of the bill. The Chair holds that the committee amendment is germane and overrules the point of order.

MR. DINGELL: Mr. Chairman, I rise to a further point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. DINGELL: Mr. Chairman, citing again the language used by myself with regard to the earlier point of order, I would point now to the specific language of the committee amendment

at page 15, line 23(e), and all that follows through page 16, line 11, at the conclusion of the words "the Civil Rights Act of 1964."

Mr. Chairman, I would point out again the same arguments are available to me with regard to the first jurisdiction of committees. Second, with regard to the other matters cited by me earlier under the rules of germaneness as embodied in the rules and the precedents of this body, I would point out, Mr. Chairman, that where the language referred to in the amendment is part of a separate piece of legislation, it would have been referred again to the Judiciary Committee and not to the Committee on Interior.

I would point out further, Mr. Chairman, that this language is not found in the original bill, although it is found in the amendment. I would point out that again the failure of the committee to have that language in both the original bill and in the committee amendment renders the committee amendment subject to a point of order.

I would call particular attention of the Chair to the fact that the rule of germaneness was established by the wise men of this body throughout the years, that all Members of this body might have full notice of matters coming to the floor of the House and would not be surprised by matters which might be irrelevant to the jurisdiction of the committee which authored the legislation.

The rule of germaneness applies, Mr. Chairman, with equal validity to proceedings on the floor as well as to proceedings within the committee.

I again reiterate my point of order on the basis not only of matters cited by me now but cited by me in connection with the earlier point of order made by me. . . .

MR. MELCHER: . . . The title and section of the committee's amendment which the gentleman from Michigan refers to deals with construction of the Alaskan pipeline. Employment of people for that purpose is, indeed, part and parcel of the construction of the pipeline. The incidental feature of our committee handling and including such language in our amendment is only incidental to the bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair has just ruled that the committee amendment is germane, and the ruling that was given by the Chair is broad enough to now cover the point of order just made by the gentleman from Michigan.

Therefore, the Chair for the reasons previously stated overrules the point of order.

Bill Designating Wilderness Areas—Amendment Providing Unemployment Benefits to Persons Affected by Bill

§ 4.8 To a bill reported from the Committee on Interior and Insular Affairs designating certain wilderness areas in Oregon, an amendment adding a new title to provide a program of unemployment benefits to persons affected by such wilderness designations was held to be not germane as addressing a

subject not contained in the bill and one within the jurisdiction of other committees of the House.

On Mar. 21, 1983,[2] during consideration in the Committee of the Whole of H.R. 1149 (Oregon wilderness designations), a point of order was raised and sustained as indicated below.

The bill was read as follows:

Sec. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated December 1982 (except as otherwise dated), are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately forty thousand nine hundred acres, are generally depicted on a map entitled "Columbia Gorge Wilderness—Proposed", and shall be known as the Columbia Gorge Wilderness . . .

Sec. 6. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Oregon and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Oregon, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Oregon. . . .

The Clerk read as follows:

Amendment offered by Mr. Young of Alaska: Insert before section 2 the heading "TITLE I—DESIGNATION OF WILDERNESS AREAS".

"Sec. 2. Add after section 6 the following:

"TITLE II—DEFINITIONS

"Sec. 20. As used in this title, the term—

"(1) 'Secretary' unless otherwise indicated, means the Secretary of the Department of Labor;

"(2) 'expansion area' means the Mount Hood, Willamette, Siuslaw, Umpqua, Rogue River, Siskiyou, Deschutes, Winema, Fremont, Ochoco, Wallowa-Whitman, Malheur, and Umatilla National Forests, and the Salem District of the Bureau of Land Management;

"(3) 'employee' means a person employed by an affected employer and, with such exceptions as the Secretary may determine, in an occupation not described by section 13(a)(1) of the Fair Labor Standards Act (29 U.S.C. 213(a)(1)) . . .

"Sec. 22. The total or partial layoff of a covered employee employed by an af-

2. 129 CONG REC. 6339, 6340, 6341, 6343, 6344, 6346, 6347, 98th Cong. 1st Sess.

fected employer during the period beginning the date of enactment and ending September 30, 1986, other than for a cause that would disqualify an employee for unemployment compensation, except as provided in section 24, is conclusively presumed to be attributable to the expansion of the Oregon portion of the National Wilderness preservation system. . . .

"Sec. 23. (a) The Secretary shall provide, to the maximum extent feasible, for retention and accrual of all rights and benefits which affected employees would have had in an employment with affected employers during the period in which they are affected employees. The Secretary is authorized and shall seek to enter into such agreements as he may deem to be appropriate with affected employees and employers, labor organizations representing covered employees, and trustees of applicable pension and welfare funds, or to take such other actions as he deems appropriate to provide for affected employees (including the benefits provided for in section 26(d)) the following rights and benefits:

"(1) retention and accrual of seniority rights, including recall rights (or, in the case of employees not covered by collective-bargaining agreements, application of the same preferences and privileges based upon length of continuous service as are applied under the affected employer's usual practices) under conditions no more burdensome to said employees than to those actively employed; and

"(2) continuing entitlement to health and welfare benefits and accrual of pension rights and credits based upon length of employment and/or amounts of earnings to the same extent as and at no greater cost to said employees than would have been applicable had they been actively employed. . . .

"Sec. 31. (a) A relocation allowance shall be paid upon application by an affected employee during the applicable period of protection if—

"(1) the Secretary determines that said employee cannot reasonably be expected to obtain suitable work in the commuting area in which said employee resides; and

"(2) the employee has obtained—

"(A) suitable employment affording a reasonable expectation of long-term duration in the area in which said employee wishes to relocate. . . .

MR. [JOHN F.] SEIBERLING [of Ohio]: Mr. Chairman, I make a point of order that the amendment is not germane, and also that it violates the provisions of the Budget Act. . . .

MR. [DON] YOUNG of Alaska: . . . Mr. Chairman, I argue that the amendment is germane. It has been heard before and has passed on previous actions of this body. I want to state that if the Parliamentarian will go back to the history of the House, this House has acted on the same exact amendment on a similar type bill in previous years. . . .

So my argument is that the amendment is germane to the bill, and it is relevant to the subject and the topic we are discussing today. We should give an opportunity to this body to decide, if the eastern establishment is going to have this wilderness, they are going to pay for it through their tax dollars to those who will be unemployed. . . .

THE CHAIRMAN:[3] The Chair is ready to rule.

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3. James L. Oberstar (Minn.).

The Chair has reviewed the amendment offered by the gentleman from Alaska.

H.R. 1149 does not relate to the question of unemployment relief to employees impacted by the wilderness designations in the bill.

The amendment contains matter not addressed on the bill and within the jurisdiction of other committees of the House and, therefore, is not germane to H.R. 1149.

The Chair sustains the point of order.

Parliamentarian's Note: Since the Chair sustained the point of order under the germaneness rule, he was not obliged to rule on the point of order under the Budget Act. The amendment provided new entitlement authority effective in fiscal year 1984 and thus violated sec. 303(a)(4) of the Budget Act, no budget resolution for that year having yet been adopted.

Bill Authorizing Appropriations for Nuclear Regulatory Commission—Amendment Prohibiting Use of Funds To Process Exports of Uranium

§ 4.9 Where a bill authorizing appropriations for an agency is reported from committees having jurisdiction over that agency, an amendment is germane which prohibits the use of such funds for any specified purpose to which the funds could otherwise be applied by that agency, notwithstanding an argument that the activities for which the use of funds is sought to be prohibited impinge on the jurisdiction of another committee; thus, to a bill reported from the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs authorizing appropriations for all the annual activities of the Nuclear Regulatory Commission, including review and approval of exports of uranium, an amendment prohibiting the use of funds authorized in the bill to review, process or approve exports of certain uranium was held germane.

The proceedings of Nov. 5, 1981, relating to H.R. 4255, the Nuclear Regulatory Commission authorization for fiscal years 1982 and 1983, are discussed in Sec. 34.31, infra.

Bill Containing Diverse Titles Relating to Hazardous Waste Disposal—Amendment Creating Cause of Action for Victims of Improper Hazardous Waste Disposal

§ 4.10 Committee jurisdiction over the subject of an

amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions; thus, where a bill contained diverse titles relating to hazardous waste cleanup, including provisions relating to new uses of a trust fund to finance removal and remedial actions, compensatory relief through private suits, relocation costs, replacement of drinking water supplies and other disaster relief, and had been amended to include a provision relating to deed covenants in government surplus property conveyances (several of such provisions containing subject matter within the jurisdiction of committees other than the reporting Committee on Energy and Commerce), an amendment in the form of a new title creating a new federal cause of action for victims of improper disposal of hazardous waste, with amounts recovered from the liable private parties to go toward reimbursement of the trust fund for remedial expenses was held germane as within the general diverse class of remedies covered by the bill as a whole, where some of those remedies already were within the jurisdiction of the Judiciary Committee, which had jurisdiction over the subject of the amendment.

On Aug. 10, 1984,[4] during consideration of H.R. 5640 (superfund authorization), it was demonstrated that the test of germaneness of an amendment adding a new title to a bill is its relationship to the portion of the bill read, as perfected by amendments:

TITLE III—MISCELLANEOUS PROVISIONS (OF THE BILL)

CITIZENS SUITS

Sec. 301. Title I is amended by adding the following new section at the end thereof:

"CITIZENS SUITS

"Sec. 116. (a) Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf . . .

Sec. 402, (a)(1) Whenever any person has (during the applicable period) supplied any hazardous substance to 100 or more sites at which there is located an underground storage tank which is, or has been used for the storage of any

4. 130 CONG. REC. 23958, 23967, 23968, 23974–78, 98th Cong. 2d Sess.

hazardous substance, the person supplying such hazardous substance shall notify the State or local agency or department designated pursuant to subsection (b)(1) of the existence of any tank located at such site which is, or has been used for the storage of any hazardous substance. For purposes of this paragraph, the applicable period shall be the calendar year immediately preceding the calendar year in which this title was enacted.

(2) The Administrator shall promulgate regulations not later than 8 months after the date of the enactment of this title regarding the providing of notice under this section which is sufficient to obtain information concerning underground storage tanks which are, or have been, used for the storage of any hazardous substance and which are not located at a site referred to in paragraph (1). . . .

MR. [GUY V.] MOLINARI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Molinari: Page 50, after line 5, insert:

NOTICE BY FEDERAL AGENCIES

Sec. 303. Section 107(g) is amended by inserting "(1)" after "(g)" and by adding the following new paragraph at the end thereof:

"(2)(A) After the effective date of regulations under this paragraph, whenever any agency or instrumentality of the United States enters into any contract for the sale of real property which is owned by the United States and on which any Federally regulated hazardous waste was disposed of or stored for one year or more, the head of such agency or instrumentality shall include in such contract notice of the type and quantity of such hazardous waste and notice of the time at which such storage, or disposal took place. . . .

"(B) In the case of any real property owned by the United States on which any hazardous waste was stored for one year or more or disposed of, each deed entered into for the transfer of such property by the United States to any other person or entity shall contain a convenant warranting that all remedial action necessary to protect human health and the environment with respect to any such waste remaining on the property has been taken prior to the date of such transfer. . . .

THE CHAIRMAN:[5] The question is on the amendment offered by the gentleman from New York [Mr. Molinari].

The amendment was agreed to. . . .

Following consideration of Title IV, an amendment was offered:

MR. [BRUCE A.] MORRISON of Connecticut: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Morrison of Connecticut: page 66, after line 9, insert:

LIABILITY FOR CERTAIN DAMAGES

Sec. 501. (a) If an individual is exposed to a hazardous substance from a facility where disposal of such hazardous substance occurred, the following persons shall be liable to such individual (or his dependent) for damages which are compensable under this section and which are caused by such exposure.

(1) any person who owned or operated the facility at the time of such disposal or thereafter (other than a person who owned or operated the facility only after termination of such exposure);

5. Joseph G. Minish (N.J.).

(2) any person who generated the hazardous substance to which the injury individual was exposed . . .

(i) If a plaintiff who recovers any amount in an action under this section by reason of exposure to a hazardous substance has obtained any emergency relief under section 104(l) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 by reason of the same exposure . . . the plaintiff shall be required to reimburse the Hazardous Substance Superfund for any amount reflecting the costs of such relief, relocation, or drinking water supplies which the plaintiff recovered in the action under this section. . . .

MR. [HAROLD S.] SAWYER [of Michigan]: Mr. Chairman, I have a point of order on the amendment. . . .

Mr. Chairman, this amendment which is now being offered is not germane to the purpose of the bill as it now stands, and under Deschler's Procedure, chapter 28, section 1.2, it is the bill, as amended.

The amendment and the bill which it is amending is aimed at cleaning up dumpsites, and this, on the other hand, attempts to create an entirely new Federal action on behalf of persons seeking damages and create various Federal tort liabilities for individuals seeking damages.

Also in considering the point of germaneness of this amendment, the jurisdiction of committees should also be one of the considerations, and obviously this section is exclusively within the jurisdiction of the Committee on the Judiciary. Under section 1.4 of chapter 28 of Deschler's Procedure, that is another consideration. . . .

MR. MORRISON of Connecticut: Mr. Chairman, this amendment adds a new title to the bill. The amendment is designed to do several things. First, it is designed to protect human health and the environment by establishing liability where improper disposal of hazardous waste has injured an individual. When there is liability, those who are in charge of disposal will do so properly to avoid the liability.

Second, the amendment is designed to provide actual relief where people are harmed by hazardous waste. The amendment builds on the cleanup program we have in place, which is designed to force private parties to pay for the cleanup, and forces the same private parties to pay for the injuries they have caused.

Third, the amendment is designed to recover amounts that have been paid out from Superfund. . . .

The test of germaneness of a new title is whether the amendment is germane to the bill as a whole. The bill in this case has many provisions which accomplish the same purpose as this amendment by the same method.

There is no question that this amendment relates to the subject under consideration. The subject of this bill is hazardous waste, how we deal with it, and the liability of those who have improperly disposed of it. The whole purpose of the Superfund is to clean up hazardous waste sites to eliminate the threat they pose to people and the environment. The bill contains provisions giving individuals the right to go against private parties to ensure safe disposal of waste. Where people are harmed under Superfund, they have a right to get money from the fund to eliminate the harm.

The amendment clearly relates to the same subject. People are being

harmed by hazardous waste and we are providing a recourse in this amendment.

The clearest test of germaneness is whether the fundamental purpose of an amendment relates to the fundamental purpose of the bill to which it is offered. Under the precedents, in ruling on this question the Chair must compare the stated purpose of the bill with the purpose of the amendment. (106 CONG. REC. 5655, 86th Cong. 2d Sess., Mar. 15, 1960.)

Section 3 of the bill, the findings and objectives section, states very clearly what the fundamental purpose of the bill is. It says in subsection (5), "establish new Federal liability standards for injuries suffered by exposed individuals." This explicit statement of purpose is demonstrated throughout the bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The test of germaneness of an amendment adding a separate or new title to the bill is its relationship to the portion of the bill read, as perfected by amendments.

The bill title I provides several new uses of the Superfund for removal and remedial actions and titles I and III of the bill together contemplate in more general terms compensatory forms of relief, either through private suits or under section 101 of CERCLA through a broad definition of remedial actions which under existing law cover potential compensation for relocation cost, to replace drinking water supplies and any emergency assistance under the Disaster Relief Act of 1974.

Title III of the bill has already been broadened by the amendment of the gentleman from New York [Mr. Molinari] which relates to deed covenants in surplus property conveyances. Other aspects of the text before the Committee relate to the jurisdiction of other committees.

The Chair might say that even as modified, there are provisions in title 3 that deal with other committee jurisdiction including the Judiciary Committee. As amended there are other provisions in the text before us that deal with other than cleanup issues.

Both the proponents and the opponents of the point of order have made some valid points, but the Chair feels the bill is still broad enough to support the germaneness of the amendment.

The Chair rules that the point of order will be overruled.

Bill Prescribing Functions of New Federal Energy Administration, Limited in Their Exercise in Accordance With Other Sections of Bill or Existing Law—Amendment Modifying Emergency Petroleum Allocation Act by Establishing Ceiling Prices for Petroleum Products

§ 4.11 To a section of a bill reported from the Committee on Government Operations prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions "to the extent expressly authorized by

other sections of the bill or any other provisions of law," an amendment to the Emergency Petroleum Allocation Act (an Act reported from the Committee on Interstate and Foreign Commerce and not otherwise amended by the bill) establishing specific ceiling prices for petroleum products was held not germane.

On Mar. 5, 1974,[6] during consideration of the Federal Energy Administration Act[7] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [BENJAMIN S.] ROSENTHAL [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rosenthal: On page 18, line 11 change Sec. 5 to Sec. 5(a).

On page 20, after the period on line 2, add the following new subsection:

"(b) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this title, is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil, and refined petroleum products, by adding at the end thereof the following new subsection:

"(j)(1) The President shall exercise his authority under this Act and the Economic Stabilization Act of 1970, as amended, so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection. . . .

"(5)(A) The President may, in accordance with the procedures and standards provided in this paragraph, amend the regulation under subsection (a) of this section to specify a different price for domestic crude oil, residual fuel oil, or refined petroleum products, or a different manner for determining the price, other than that provided in paragraph (2) or (3) of this subsection, if he finds that such different price or such different manner for determining such price is necessary to permit the attainment of the objectives of this Act. . . .

"(10) The provisions of this subsection shall apply to all crude oil notwithstanding the provisions of subsection (e)(2) of this section and section 406 of Public Law 93–153 (87 Stat. 590). . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I rise to a point of order against the amendment. My point of order is that the amendment offered by the gentleman from New York (Mr. Rosenthal) is nongermane under rule XVI, clause 7. . . .

I do not wish to imply a position for or against the amendment by making this point of order, but I do feel constrained to block it because of the importance of getting this bill through under regular procedure. We must not allow this bill to be tied up in a thousand controversies as have been other energy bills.

The germaneness rule is one of the distinctive features of the procedures of this House. It dates back to our very beginning. There have been occasions

6. 120 CONG. REC. 5306–09, 93d Cong. 2d Sess.

7. H.R. 11793.

where this House has acted as though this rule was not applicable, and the legislation has been poorer as a result. I think the rule of germaneness should be strictly applied to H.R. 11793. It is a soundly conceived organization bill and we should consider it as such.

I realize there has been some question as to whether this bill does, in fact, grant policy and program authority. I have maintained from the beginning that this bill does not do so; and for that reason I was willing to support the amendment, recently adopted, which provides that nothing in the functions section of the bill shall be considered to set policy or grant program authority. The acceptance of this amendment underscores the lack of policy and program authority in the bill; and, of course, the Chair will have to take into account the significance of the adoption of this amendment because, to quote from Cannon, volume VIII, section 2910:

> (T)he Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time at which it is offered.

Let me explain exactly what the bill does. As it states in the "declaration of purpose" section:

> (I)t is necessary to reorganize certain agencies and functions of the executive branch and to establish a Federal Energy Administration.

The bill then proceeds to establish the administration. Section 5 sets out the general areas of interest of the new Federal Energy Administration. Section 6 transfers to the Agency authority from other offices and departments in the executive branch. In no way does this bill affect any of these substantive laws other than to change the location of responsibility for their execution. My committee did not amend the substance of these transferred laws, because their substance is within the jurisdiction of other committees. The remaining sections of the bill deal with typical administrative authorities granted to departments and agencies and the necessary arrangements for the transition to the new Agency. . . .

I would like to point out that this amendment cannot be held germane simply because it relates to laws being amended by this bill. Let me again quote Cannon, volume VIII, section 2909:

> (T)he rule of germaneness applies to the relation between the proposed amendment and the pending bill to which [it is] offered, and not to the relation between such amendment and an existing law of which the pending bill is amendatory.

There are, of course, numerous other precedents along the same lines, such as Cannon, volume VIII, section 3045, 2948, and 2946. The reason for this is that the House needs a way to protect itself from amendments which have not been properly considered.

> While the committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment. (Hinds, Vol. V, sec. 5825).

Also, as is to be found in Cannon, volume VIII, section 2912, one of the functions of the rule requires that germaneness is to preclude consideration of legislation which has not been considered in committee. Other committees have considered or are considering

the subject of this amendment, and this amendment is germane to their legislation. The Chair has in the past stated that amendments dealing with subject matter in the jurisdiction of another committee are not germane—Record, June 7, 1972, at page H5347; April 20, 1972, at page H3377; May 22, 1972, at page H4764–65. While I can sympathize with those who feel obliged to respond to the energy crisis by offering substantive energy policy and program amendments, these amendments are not appropriate to this organizational bill.

H.R. 11793 is a reorganization bill; it is not a policy or program bill. The House has long recognized the distinction between policy bills and organizational bills. The very fact that we have established a Government Operations Committee with responsibility for, and I quote from rule XI, clause 8: "Reorganizations in the executive branch," is evidence of the long appreciation of this House for the distinct legislative area of reorganization. If we begin to allow policy and program authority to be added to reorganization bills, an important barrier between the work of my committee and the work of other legislative committees will have been ruptured. . . .

MR. ROSENTHAL: . . . The subject matter of H.R. 11793 is the establishment of a new Federal Energy Agency whose Administrator is authorized to regulate energy prices and is admonished, in section 5, to "promote stability in energy prices." The subject matter of my amendment is the achievement of stability in energy prices, clearly the same as the subject matter of a major portion of the legislation itself.

House interpretations of the germaneness rule hold that "the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill" and "an amendment should be germane to the particular paragraph or section to which it is offered," House rule XVI, section 794.

My amendment goes to a fundamental purpose of the bill—bringing about stability in energy prices—and it appears as a part of the "functions" section which requires such stability.

My price rollback amendment is germane for additional reasons:

No House rule or precedent prohibits the Government Operations Committee from granting new power or creating new policy in a bill of this kind—so long as the power or policy is directly related to the purpose for which the agency is being created. In fact numerous provisions already in H.R. 11793 and in other Government Operations' bills to reorganize and consolidate, create new powers and set new policy.

For example, the committee, in the Federal Energy Act, has already expressly established new policies and created new powers not elsewhere authorized by law:

Section 4(i) amends and revises a Federal conflict of interest statute—section 208 of title 18, United States Code—technically within the jurisdiction of the Post Office and Civil Service Committee.

Another provision, section 17, authorizes a study of and report on oil and gas reserves not now required by law—probably a subject within the jurisdiction of the Interior or Commerce Committee.

The point here is that the committee has already seen fit, in H.R. 11793, to

create new policies the subject matter of which might properly be said to belong in other committees.

Moreover, the Government Operations Committee has a long history of establishing new policies and creating new powers that technically infringe on the jurisdiction of other committees.

For example:

The Department of Transportation Act, reported by the committee in 1966, dealt with: First, the safety compliance records of applicants seeking operating authority from the Interstate Commerce Commission—technically, Commerce Committee jurisdiction; second, authority over the formulation and economic evaluation of proposals for the investment of Federal funds in transportation facilities or equipment—technically, Banking and Currency jurisdiction; third, standards for economic evaluation of waste resource projects—technically, Public Works Committee jurisdiction.

It is simply impossible as well as unwise to attempt to separate organizational provisions on the one hand, from so-called policy provisions, on the other. In the past, the committee has never hesitated to legislate policy when those provisions were directly relevant to the functions of the agency created. It should not now attempt to do so. Organization and policy are inextricably bound together.

When the House entrusted to the Government Operations Committee the power to legislate the existence of new agencies, it also gave to the committee, of necessity, leeway to establish new policies and powers essential to the purposes of an agency. Examples of what might be characterized as policy as opposed to organizational provisions can be found in many other agency bills reported out of the Government Operations Committee.

The committee, in section 2 of the present bill—H.R. 11973—establishes as a purpose of the Federal Energy Administration the establishment of "fair and reasonable consumer prices" for energy supplies. Section 5, paragraph 5, establishes as a function of the Administrator, the promotion of "stability in energy prices to consumers." My amendment merely provides a mechanism by which this purpose and function can be carried out.

It is also relevant to the parliamentary challenge that section 6 of the bill transfers to the Federal Energy Administrator all functions of the Cost of Living Council over energy prices. A concomitant of the Government Operations Committee's authority to transfer functions from one agency to another is its right to condition that transfer. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . Mr. Chairman, though I agree with the commendable restraint of the Chairman of this Committee in not entering into functional areas of the bill, that it came beyond the Committee on Interstate and Foreign Commerce, nevertheless I cannot fail to agree with the gentleman from New York (Mr. Rosenthal), that it is utterly impossible in a bill this complex to separate procedural operations and functions from a subject matter with respect to which that official is designed to control.

This bill by the very amendment that was passed a minute ago by an overwhelming vote, referred to other sections of this act as giving sub-

stantive authority to the agency, so that the bill now reads: "To meet the energy needs of the Nation for the foreseeable future, the Administrator, to the extent expressly authorized by other sections of this act or any other provisions of law," and then it says what he shall do.

Mr. Chairman, there are other sections of this bill which give substantive authority for transfer. This agency has no authority, as the gentleman from New York stated before, to deal with the question of prices except by virtue of the section on transfer on page 20 whereby transfers provide for this agency to exercise a broad area of authority.

Now, why may not this House choose, in determining what authorities are granted to the agency, whether this House desires to limit this authority to transferred authorities or to new ones? . . .

Further, the provisions of the act provide administrative procedures which have considerable influence on substance. The act in section 15 provides for information gathering power, which of course leads to the question of whether or not that information gathering power would ultimately be utilized for the purpose of extending or contracting the authority of the agency. . . .

THE CHAIRMAN:[8] The Chair is prepared to rule on the point of order. . . .

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that the amendment is not germane to the bill under consideration.

The gentleman has made the further point of order that the amendment covers a subject matter not within the jurisdiction of the Committee on Government Operations, but within the legislative jurisdiction of another Committee of the House of Representatives.

The gentleman from New York, in urging the Chair to overrule the point of order, has cited many reasons. Part of the gentleman's statement deals with another section of the bill which has not been read at this time. Part of his remarks deal with the policy of the amendment, not with the parliamentary situation.

The Chair would not want to rule in this instance in such a manner that every law of the United States dealing with the energy question would be open to amendment in the pending bill.

The gentleman from New York (Mr. Rosenthal) referred during his argument to a bill in the 89th Congress creating a new Department of Transportation and delineating the duties of its Secretary. The Chair has examined the Congressional Record for the period when that bill was under consideration. An amendment was offered on that occasion directing the Secretary of Transportation to conduct a study of "labor laws as they relate to transportation," a matter within the jurisdiction of another committee, and to recommend procedures for settlement of labor disputes. A point of order was made against that amendment, and the Chairman at that time (the Honorable Mel Price of Illinois) ruled such an amendment out of order as not being germane to the bill under consideration.

The Chair would point out that the question of committee jurisdiction is

8. John J. Flynt, Jr. (Ga.).

not the sole test of germaneness. The primary test is always the relationship of the amendment to the text of the bill to which it is offered.

But this amendment clearly seeks to amend another law, the Emergency Petroleum Allocation Act of 1973, which is not sought to be amended in the bill under consideration.

Therefore, the Chair refers to a ruling made by Mr. Speaker Carlisle on March 17, 1880:

> When it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that the proposed amendment is a motion or proposition upon a subject matter different from that under consideration.

The Chairman of the Committee of the Whole House, John J. Fitzgerald of New York, on September 27, 1914, ruled that:

> For an amendment to be germane means that it must be akin to or relevant to the subject matter of the bill. It must be an amendment which would appropriately be considered in connection with the bill. The object of the rule requiring amendments to be germane . . . is in the interest of orderly legislation.

In passing on the germaneness of an amendment, the Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time it is offered and not as originally referred to the committee. And it has been held that an amendment which might have been in order, if offered when the bill was first taken up, may be held not germane to the bill as modified by prior amendments.

The Chair, therefore, rules that the amendment seeks to amend a separate piece of legislation, namely, the Emergency Petroleum Allocation Act of 1973, which is not amended in the bill under consideration and sustains the point of order.

Overlapping Jurisdiction—Bill To Extend Federal Energy Administration; Amendment Terminating Agency and Transferring Functions to Other Agencies

§ 4.12 While committee jurisdiction over the subject of an amendment is a relevant test of germaneness, it is not the exclusive test where there is an overlap in jurisdiction between the committee reporting the bill and another committee.

On June 1, 1976,[9] during consideration of a bill (H.R. 12169) to extend the existence of the Federal Energy Administration (which would otherwise terminate), an amendment in the nature of a substitute abolishing the agency and some of its functions and transferring other functions to existing agencies was held germane as another reorganization proposal closely related to that contained in the law being amended. The amendment provided in part:

The Clerk read as follows:

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9. 122 CONG. REC. 16021–25, 94th Cong. 2d Sess.

Amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs; the functions of the Office of Communications and Public Affairs. . . .

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

(1) The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior. . . .

Sec. 4. (a) The Director of the Office of Management and Budget shall take such action as may be necessary to insure the abolition of functions under section 2(a), in accordance with applicable laws and regulations relating to the abolition of functions.

(b) The Director of the Office of Management and Budget is hereby directed to take such action as may be necessary to insure that the transfer of functions does not result in any unnecessary duplication. . . .

Mr. John D. Dingell, of Michigan, having reserved a point of order against the amendment, the following exchange occurred:

THE CHAIRMAN:[10] Does the gentleman from Michigan insist upon his point of order?

MR. DINGELL: I do insist upon my point of order, Mr. Chairman. . . .

Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises, and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor.

If you will read the amendment, you will find that it transfers functions to the Energy Research and Development Administration, the Department of the Interior, and the Federal Power Commission. Nowhere in the bill before us or in the basic FEA statute are any of these agencies referred to. Furthermore, the amendment sets up a whole series of other responsibilities. It, first of all, transfers jurisdiction over litigation and has a lengthy savings clause which should have properly been referred to the Committee on the Judici-

10. William H. Natcher (Ky.).

ary. As the Chairman will note, that is the committee which has general jurisdiction over those areas of the Federal Constitution, both in the Constitution, and so forth. Beyond that, Mr. Chairman, the amendment imposes upon the Director of the Office of Management and Budget in at least two places certain responsibilities. For example, in the case of oversight responsibility under section 4(a), to insuring the abolition of the functions under section 2(a), something which is not in the original FEA statute and something which is not in the bill before us.

I would point out that the Director of the Office of Management and Budget is not here mentioned.

In addition to this, the Director of the Office of Management and Budget is required to make lengthy reports to special committees of the Congress which are not mentioned either in the bill, Government operation committees of the House and Senate, or in the basic FEA statute.

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the Director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give notice to the Members as to what they could reasonably anticipate in the sense of amendments which might be presented to them. It is clearly obvious that no Member might have anticipated the removal of the FEA responsibilities to the Interior Department, the Federal Power Commission, or to ERDA, under the rules of the House or the language of the legislation which is brought to the floor; nor could any Member anticipate savings clauses with regard to litigation, or that there should be the transfer of matters relating to oversight to the Director of the Office of Management and Budget.

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order. . . .

MRS. [PATRICIA] SCHROEDER [of Colorado]: . . . There are equal precedents pro and con on the germaneness of my substitute. It is a unique question.

I therefore believe that the policy must come into play. Upholding this point of order will create the following problems down the road.

First, the Senate, which has a bill, S. 2872, soon to be before it, is consid-

ering an entirely different FEA bill than H.R. 12169. This bill comes from its Government Operations Committee. It contains sections which parcel out the FEA like my amendment. So, if my substitute is found non-germane, then considering the usual conference committee procedures, the conference report on the FEA bill will probably also later be found non-germane—since it will still parcel out the FEA and thus be non-germane to what the House has passed.

Second, rule XVI, clause 7 of germaneness is of high value to the House. But, should it defeat a proposition which is merely an innovation on what would happen if the bill to be amended by it is defeated. Is the value of the rule of germaneness great when it negates for the House a chance to consider a sound alternative to a likely possibility?

Third, much ado has been made of the proposal for sunset legislation for Federal agencies. The Federal Energy Administration Act of 1974 contains, for all intent and purposes, a variety of this legislation unique to itself. Indeed, this is why the problem we are today facing even exists. Therefore, if my amendment in the nature of a substitute is rejected on a point of order, we in the House will have a tremendously counterproductive precedent to work with if and when sunset legislation for Federal agencies is enacted.

JURISDICTION

Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute, which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

PURPOSE

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions.

If a larger interpretation is placed on the bill—or the substitute—then defeat

itself of it would certainly be contrary to the rules and not permitted by the rules.

Other precedents to this point are numerous.

In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill—August 2, 1973. Both H.R. 12169 and the substitute propose to continue the functions of the FEA by Federal agencies. See very particularly the precedents of December 15, 1937, June 9, 1941, December 19, 1973. . . .

THE CHAIRMAN: The Chair is ready to rule.

Several days ago the gentlewoman from Colorado (Mrs. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

The amendment in the nature of a substitute would abolish the Federal Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—Public Law 93–275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII,

section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93–275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

Provisions To Regulate Production and Allocation of Energy Resources—Amendment To Reduce Energy Consumption by Reducing Federal Workweek

§ 4.13 To an amendment in the nature of a substitute for a bill reported from the Committee on Interstate and Foreign Commerce to conserve energy resources by regulating the production, allocation and use of those resources, an amendment to reduce energy consumption by the federal government through the implementation of a reduced workweek for federal civilian employees was held to go beyond the scope of the bill and to contain matters within the jurisdiction of the Committee on Post Office and Civil Service, and was held to be not germane.

During consideration of the Energy Emergency Act[11] in the Committee of the Whole on Dec. 14, 1973,[12] the Chair sustained a point of order against the following amendment:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Conte to the amendment in the nature of a substitute offered by Mr. Staggers: On page 44, immediately below line 21, insert the following:

(c) In order to assist the effective implementation of the purposes of this Act by the Federal Government in the area of Federal employment, the President, through such authority or authorities in the executive branch as he considers appropriate, shall prepare and submit to the Congress within ninety days after the date of enactment of this act a detailed and comprehensive plan for the establishment and institution, to the extent practicable, of a new basic administrative workweek of forty hours for Federal civilian employees in the executive branch . . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment offered by my good friend from Massachusetts is not germane. The reasons, I think, are apparent to the Chair.

The amendment offered by my good friend would set up a 4-day workweek. I would be, I think, as surprised as the Chair if he were to find elsewhere in the bill and, indeed, on the basis referred to any reference to a 4-day, 40-hour workweek.

Obviously this matter is not within the jurisdiction of the Committee on Interstate and Foreign Commerce, but rather in the rules of Congress under the hands of the Committee on Post Office and Civil Service, if that committee has not voted away that power. I am not sure they did that some time back.

In any event, the amendment seeks to go far beyond the purpose and scope of the bill and deals with a whole new question, the workweek of Federal employees lying within the jurisdiction of a totally different committee. . . .

MR. CONTE: . . . Mr. Chairman, I think that the amendment is germane. If we look at section 122, which is the Employment Impact and Worker Assistance section, the first point of that section, (a) says that carrying out his responsibilities under this act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon employment.

I certainly feel this is germane. It takes that into consideration. It provides for a 40-hour workweek, 10 hours a day, keeping in mind the Civil Service laws and the overtime laws. If it does not go into effect and there is a shortage of energy, it is very, very possible, that a lot of Federal employees will be out of work much less than 40 hours a week.

Therefore, I hope the Chair will rule in my favor.

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11. H.R. 11450.

12. 119 CONG. REC. 41756, 93d Cong. 1st Sess.

THE CHAIRMAN:[13] The Chair is prepared to rule. Despite the eloquent argument of the gentleman from Massachusetts, the fact of the matter is that the amendment goes well beyond the purposes of the section of the bill and the bill itself and the matter contained in the amendment surely comes within the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, the point of order of the gentleman from Michigan is sustained.

Provisions Authorizing Secretary of Interior To Establish Petroleum Reserves—Amendment Giving President Authority Over Reserves Conditional Upon Subsequent Congressional Authorization

§ 4.14 To a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves, including naval petroleum reserves, on certain public lands, an amendment in the nature of a substitute containing similar provisions and authorizing the president to place petroleum reserves in strategic storage facilities "pursuant to any program subsequently authorized by Congress" was held germane, as not itself establishing a strategic storage facility (a matter within the jurisdiction of the Committee on Armed Services) but as merely conditioning the president's authority upon separate enactment of such program.

During consideration of H.R. 49 (relating to national petroleum reserves on public lands) in the Committee of the Whole on July 8, 1975,[14] Chairman Neal Smith, of Iowa, overruled a point of order against the following amendment:

MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Melcher: Strike out all after the enacting clause and insert:

That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States . . . .

Sec. 2. No national petroleum reserve that includes all or part of an existing naval petroleum reserve shall be established without prior

13. Richard Bolling (Mo.).

14. 121 CONG. REC. 21631–33, 94th Cong. 1st Sess.

consultation with the Secretary of Defense, and when so established, the portion of such naval reserve included shall be deemed to be excluded from the naval petroleum reserve. . . .

(d) Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that not more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities. . . .

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Chairman, I have a point of order against the amendment on the basis that the amendment offered includes a sentence relating to strategic defense. The original bill, H.R. 49, had no such reference.

THE CHAIRMAN: Will the gentleman specify the language he refers to?

MR. HÉBERT: The language which I read, from section (d):

> Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that no more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities.

I point out, Mr. Chairman, that the original bill, as presented to the Committee on Rules, did not contain any such reference at all. Therefore, it is not germane. . . .

THE CHAIRMAN: The Chair is prepared to rule on this point of order.

The Chair would note that the language of the Melcher amendment referred to states "pursuant to any program hereafter authorized by the Congress."

The Melcher amendment does not set up a program nor authorize a program for strategic storage of petroleum; it merely refers to a program which may hereafter be authorized. If it did attempt to authorize a program not related to the committee amendment, then the decision on the point of order would be different.

However, since it does not, the point of order is overruled.

Provisions For Allocation of Petroleum Products and Coal—Amendment Waiving Provisions of Law in Order To Encourage Coal Production

§ 4.15 To an amendment in the nature of a substitute seeking to allocate petroleum products in order to stimulate exploration for and production of essential energy minerals, and containing a section intended to encourage the conversion to coal as an energy source and to require the proper allocation of coal to users thereof, an amendment proposing to expand domestic coal production by waiving certain provisions of law, not within the jurisdiction of the Committee which had reported the bill, which inhibit coal production was held germane.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[15] the Chair held that to an amendment in the nature of a substitute, the following amendment was germane:

MR. [LAMAR] BAKER [of Tennessee]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Baker to the amendment in the nature of a substitute offered by Mr. Staggers: On page 15, strike lines 13 and 14 and insert in lieu thereof the following:

"(d) Coal Production Authority.—The Administrator may take such actions as are necessary to assure an adequate supply of coal to attain the objectives of this section, including, but not limited to, the granting of exemptions from provisions of the Economic Stabilization Act which inhibit the ability of coal producers to obtain the necessary equipment and personnel for production and distribution of coal; and the granting of exemptions, on a case-by-case basis, from provisions of the Federal Coal Mine Health and Safety Act, in such cases as mines located above the water table or in which methane has not been detected as prescribed in section 303(h) of such Act, where it has been determined (1) that such provisions substantially reduce the ability of the producer to provide necessary supplies of coal in an economical manner, and (2) that the exemption will not materially affect the health and safety of employees of that producer.". . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment on these grounds. The amendment is not germane in that it deals with the subject matter of another committee, the Committee on Education and Labor; in that it purports to amend the Federal Coal Mine Health and Safety Act under the exclusive jurisdiction of that committee; and it proposes to assign to the Administrator the ability to grant exemptions under that act, which is in no wise amended or altered by this provision. . . .

MR. BAKER: Mr. Chairman, on page 5 of the bill under consideration, line 22, the President is urged to take such action consistent with the provisions of this act and is authorized to take under this act and any other act action to encourage full production by the domestic energy industry at levels which make possible the expansion of facilities required to insure against a protraction in any such increased levels of unemployment. The amendment would increase employment in its implementation.

On page 7, line 22, and on to page 8, the act calls for the production and extraction of minerals essential to the requirements of the United States. This would further enhance employment in the Nation.

Then on page 14 it says nothing in the paragraph should be interpreted as requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Many of the small mines here would come under the provisions of this amendment.

I ask that the point of order be overruled.

15. 119 CONG. REC. 41748, 93d Cong. 1st Sess.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The language that appears on page 7, beginning at line 22, cited by the gentleman from Tennessee, says:

> (b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:
> "(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—
> "(1) fuels, and
> "(2) minerals essential to the requirements of the United States,
>
> and for required transportation related thereto;'.

The Chair believes that that language, together with the language cited on page 5 urging full production by the domestic energy industry, justifies the offering of this amendment which deals with coal production despite the point made by the gentleman from Texas with regard to the narrow construction of the section to which it is offered and, therefore, overrules the point of order.

The gentleman from Tennessee is recognized for 5 minutes in support of his amendment under clause 6 of rule XXIII.

Authorization to President To Ration Gasoline—Amendment Imposing User Charge as Part of Rationing Plan

§ 4.16 To a section of an amendment in the nature of a substitute which amended section 4 of the Emergency Petroleum Allocation Act of 1973 to authorize the President to establish priorities, including rationing of gasoline, among users of petroleum products, an amendment providing that any rationing proposal for individual users of gasoline should include payment of a user charge to qualify for additional allocations was held to constitute a tax which was not within the category of rationing authority in the substitute and was held to be not germane.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[17] the Chair ruled that an amendment to an amendment in the nature of a substitute was not germane. The proceedings were as follows:

> SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.
>
> (a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:
>
> "(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he

16. Richard Bolling (Mo.).

17. 119 CONG. REC. 41750, 93d Cong. 1st Sess.

may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare). . . .

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

MR. [JAMES G.] MARTIN of North Carolina: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

> Amendment offered by Mr. Martin of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers: On page 6, at line 6, strike the period, and add: "; *Provided, however*, That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic non-discriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a free or user charge on a per unit basis to the Federal Energy Administration."

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . .

I make the point of order on the amendment on the ground that it authorizes a user's fee in the nature of a tax and that is not supposed to come within the jurisdiction of our committee. That authority is delegated to the Ways and Means Committee.

MR. MARTIN OF North Carolina: Mr. Chairman, I believe that the amendment is germane and pertinent to the section dealing with gasoline rationing. . . .

This amendment does not propose a tax as such and so does not run afoul of the prerogatives of the honorable Committee on Ways and Means. Instead it proposes an administrative fee to be charged, much as fees are charged by the National Park Service under the Golden Eagle plan for use of our park resources. This fee as I propose it would be charged for preferential use of any extra limited fuel resources.

THE CHAIRMAN:[18] The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

Tidelands Bill—Substitute Relating to Lease of Off-shore Lands

§ 4.17 To a bill relating to oil leases and seeking to estab-

18. Richard Bolling (Mo.).

lish the title of the states to lands beneath navigable waters within state boundaries, a substitute authorizing the Secretary of the Interior to lease off-shore lands, and establishing an agency to advise on the disposition of revenues from such leases was held to be not germane.

In the 82d Congress, during consideration of the tidelands bill,[19] the following amendment was offered:[20]

> Amendment offered by Mr. [Michael J.] Mansfield [of Montana]: Strike out all after the enacting clause and insert in lieu thereof the following: . . .
>
> Sec. 2. All moneys received by the Secretary of the Interior from leases issued pursuant to this act shall be held in a special account. . . .
>
> Sec. 3. There is hereby created a National Advisory Council on Grants-in-Aid of Education. . . . It shall be the function of the Council to formulate . . . a plan for the equitable allocation of the moneys available under section 2 for use as grants-in-aid of primary, secondary, and higher education.

A point of order was raised against the amendment, as follows:

> MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is not germane to the bill under consideration. It provides a system of aid to education, which is not within the contemplation or purview of this bill.

The Chairman,[1] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Montana not only deals with oil leases, but undertakes to set up a new agency of Government and to divert the fund for educational grants and educational purposes, a subject which is within the exclusive jurisdiction of another committee of the House, namely the Committee on Education and Labor. In view of that fact the Chair is constrained to sustain the point of order.

Bill Relating to Development of Outer Continental Shelf Energy Resources—"Buy-American" Amendment Affecting Equipment Used

§ 4.18 To a title of a proposition reported from the Select Ad Hoc Committee on the Outer Continental Shelf comprehensively amending the Outer Continental Shelf Lands Act to impose diverse restrictions and conditions on the management and development of energy resources on the outer continental shelf, an amendment to require that vessels, rigs

19. H.R. 4484 (Committee on the Judiciary).

20. 97 CONG. REC. 9193, 82d Cong. 1st Sess., July 30, 1951.

1. Howard W. Smith (Va.).

and platforms used in such development be built and operated by domestic concerns was held germane as a further restriction similar in nature to those already contained in the title.

On July 21, 1976,[2] the Committee of the Whole had under consideration H.R. 6218, the Outer Continental Shelf Lands Act Amendments, which contained restrictions and conditions on the management and development of energy resources on the outer continental shelf, including safety regulations pertaining to the design and use of all equipment on the shelf, requirements for the federal purchase of resources extracted from the shelf, and limitations on export of such resources. An amendment was offered, as follows:

> MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Murphy of New York: Page 123, line 9, strike out the quotation marks and the period following such quotation marks and insert immediately after line 9 the following new section:
>
> "Sec. 29. Domestic Construction and Operation.—(a) Within six months of the date of the enactment of this section, the Secretary shall by regulation require that any vessel, rig, platform, or other vehicle or structure used more than one year after such date of enactment in the exploration, development, or production of the mineral resources located on or under the seabed and subsoil of the outer Continental Shelf be manned or crewed by citizens of the United States, unless specific contractual provisions or national registry manning requirements in effect on such date of enactment provide to the contrary. The Secretary shall also by regulation require that any vessel, rig, platform, or other vehicle or structure used more than one year after such date of enactment in the exploration, development, or production of the mineral resources located on or under the seabed and subsoil of the outer Continental Shelf and built or rebuilt more than one year after such date of enactment (1) be built or rebuilt in the United States, (2) be owned by citizens of the United States, (3) be operated by citizens of the United States, (4) be manned or crewed by citizens of the United States, and (5) when required to be documented, be documented under the laws of the United States. . . .
>
> THE CHAIRMAN:[3] Does the gentleman from Florida (Mr. Gibbons) insist upon his point of order?
>
> MR. [SAM] GIBBONS [of Florida]: Yes, sir, I do. . . .
>
> This amendment is not germane to that. This amendment is a naked buy national requirement. This bill deals with the production of oil and resources of the Outer Continental Shelf. This amendment restricts where people can buy the material that goes into it for its ordinary production.
>
> Another important reason why this amendment is out of order is that the

2. 122 CONG. REC. 23167, 23168, 94th Cong. 2d Sess.

3. William H. Natcher (Ky.).

jurisdiction of this ad hoc committee is severely limited by the rules of the House and by the resolution establishing the committee.

The rules of the House, rule X, clause 3, authorizes the Speaker to refer matters to a special ad hoc committee, such as this, with the approval of the House membership. An ad hoc committee is to be made up of members of the legislative committees that have jurisdiction over the matter.

This amendment is wholly within the jurisdiction of the Committee on Ways and Means. It is not within the jurisdiction of any of the three subcommittees that deal with this matter. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the Murphy amendment. The basis for my point of order is that the amendment violates rule XVI because it is not germane.

Cannon's Precedents—VII—states that committees are all creatures of the House and exercise no authority or jurisdiction beyond that specifically conferred by the rules or by the special delegation of the House itself. House Resolution 412, passed last year, which created the select committee strictly limited its jurisdiction to that of the Committees on Interior, Judiciary, and Merchant Marine and Fisheries.

The Murphy amendment is a so-called Buy American provision requiring vessels, rigs, and platforms be built in the United States. These protectionist restrictions of trade clearly fall within the jurisdiction of the Ways and Means Committee and obviously exceeds the jurisdiction given to the select committee under House Resolution 412.

Deschler's Procedure, chapter 28, section 33.1 covers the example of an Education and Labor bill in the 90th Congress amending the Fair Labor Standards Act. An amendment proposing to modify the Tariff Act of 1930 which was within the jurisdiction of the Committee on Ways and Means was held to be nongermane. The same chapter, section 4.8 cites another bill amending the Fair Labor Standards Act. An amendment modifying provisions with respect to the importation of merchandise was ruled nongermane.

Mr. Chairman, Deschler, chapter 28, section 4.16 states that committee jurisdiction over the subject of the amendment and of the original bill is not the exclusive test of germaneness, but in this case the amendment clearly invades another jurisdiction and is not integral to the purpose or effect of the bill according to our rules. The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. The fundamental purpose of this bill is not protectionism or restriction of trade. . . .

MR. MURPHY of New York: Mr. Chairman, this amendment is clearly germane. One major purpose of the bill H.R. 6218 is to establish a policy for the management of oil and natural gas development in the Outer Continental Shelf. This goal is accomplished through numerous provisions which direct Secretary of the Interior and other Federal officials to assert regulatory authority over the individuals and mechanical equipment and devices involved in the exploration, development, and production of Outer Continental Shelf oil and gas. . . .

Simply put, the subject before the House is the broad issue of policy to

regulate the development of OCS oil and gas. The subject before the House is who will develop OCS resources, under what environmental, social, and economic controls. My amendment addresses this subject and is thus germane. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I primarily rise because I think it is extremely important that we not establish a precedent respecting any jurisdiction which is too narrow in an ad hoc committee of this nature.

The very reason for appointing ad hoc committees is to give a certain flexibility and a certain scope to deal with the specific problem.

Mr. Chairman, as the gentleman from New York (Mr. Murphy) has very well pointed out, his amendment is a restriction on terms and conditions provided for in this bill which has been designated to this ad hoc committee.

It would seem to me that this is a ruling of vast importance because there may well be a time in this body when a number of ad hoc committees may be appointed as a necessary instrument for putting into effect the will of this body; and a narrow construction with respect to germaneness on the basis of the delegation of the jurisdiction of those committees would, in my opinion, be a very, very bad thing from the standpoint of future precedent.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Florida (Mr. Gibbons) makes a point of order against the amendment offered by the gentleman from New York on the grounds that it is not germane to title II of the committee amendment in the nature of a substitute.

The amendment would add a new section to the Outer Continental Shelf Lands Act to require that vessels, rigs and platforms used for the exploration and production of resources on the Outer Continental Shelf be built in the United States, operated by United States citizens, and documented under the laws of the United States. Section 208 of the committee amendment in the nature of a substitute to H.R. 6218 adds a variety of new sections to the Outer Continental Shelf Lands Act to impose requirements on and to offer guidelines for the development and production of the resources on the shelf. The committee amendment requires management of the shelf to consider all economic, social, and environmental values of such resources, imposes safety regulations on the design and use of all equipment on the shelf, requires leasing plans, subject to the approval of the Secretary, to detail the equipment and facilities to be used in development, and provides for the gathering of all information relative to the facilities and equipment to be used in such development. Additionally, section 208 adds sections to the existing act to insure the availability of domestic energy from shelf development by providing for Federal purchase of the resources and limiting export of such resources. The amendment offered by the gentleman from New York would add a further direction and restriction to those contained in section 208 of the committee amendment. For the reasons stated, the Chair feels that the amendment in this context is germane to the portion of the bill to which it is offered and therefore overrules the point of order.

Energy Conservation—Import Quotas

§ 4.19 To a title of a bill reported from the Committee on Interstate and Foreign Commerce containing diverse petroleum conservation and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane.

On Sept. 17, 1975,[4] the Committee of the Whole having under consideration the Energy Conservation and Oil Policy Act of 1975,[5] a point of order against an amendment to a title of the bill was sustained. The proceedings were as follows:

TITLE IV—ENERGY CONSERVATION MEASURES

PART A—ALLOCATION ACT AMENDMENTS AND OTHER ENERGY CONSERVATION MEASURES

Sec. 401. Restructuring of Allocation Act.

Sec. 402. Conversion to standby authorities.

Sec. 403. Definitions in Allocation Act.

Sec. 404. Amendments to section 4 of the Allocation Act.

Sec. 405. Mandatory gasoline allocation savings program.

Sec. 406. Retail distribution control measures.

Sec. 407. Direct controls on refinery operations.

Sec. 408. Inventory controls.

Sec. 409. Hoarding prohibitions. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 282, after line 16 insert the following:

Import Quotas on Petroleum Products From Certain OPEC Countries

Sec. 456. During calendar year 1976, and each calendar year thereafter, the aggregate quantity of petroleum products which may be imported into the United States from each country which is a member of the Organization of Petroleum Exporting Countries (other than Venezuela, Iran, Ecuador, Indonesia, Nigeria and any other member who did not participate in the petroleum products boycott of 1973) may not exceed an amount equal to the daily average of petroleum products imported into the United States from that country during the first six months of calendar year 1975, multiplied by 365.

Redesignate the succeeding sections of title IV accordingly.

Mr. John D. Dingell, Jr., of Michigan, made a point of order against the amendment:

MR. DINGELL: Mr. Chairman, the title of the amendment is "Import

4. 121 CONG. REC. 28905, 28924, 28925, 94th Cong. 1st Sess.

5. H.R. 7014.

Quotas on Petroleum Products From Certain OPEC Countries.'' The bill does not provide import quotas. The bill does direct the President to use, however, certain authorities which he has in connection with other statutes under subparagraph (b) in line 17 of page 249, but, as the Chair will observe, that is only a direction to the President to use certain powers which he has in connection with controlling domestic consumption of petroleum products. . . .

First of all, (the amendment) is offered I believe at the wrong place in the bill and, second of all, it is a proposal which is not properly in the bill since the Committee on Interstate and Foreign Commerce has no jurisdiction to impose import quotas, that lying under the rules of the House in the Ways and Means Committee.

Also, since this is an amendment of which the Members could not reasonably and logically have been apprised as required by the rules of the House from the title of the legislation now before the House and although I have some sympathy for the purposes and goals of the gentleman, I have to point out, nevertheless, the question is not a question which could or should properly be decided by the Committee at this time under the rules of the House. . . .

MR. GONZALEZ: . . . I would like to call the attention of the Chair to Deschler's Procedure, on page 374, citation 5.17, in which it is held very clearly and most emphatically:

> To a text seeking to accomplish a broad purpose by a method less detailed in its provisions, an amendment more definitive but relating to the same purpose implicit in the committee's approach was held germane.

The purpose of the bill is to increase domestic supply, conserving and managing energy demand, and to establish standby programs for minimizing this Nation's vulnerability to major interruptions in the supply of petroleum imports.

My amendment is more definitive in that it provides through import quotas a means to encourage conservation, which is directly related to the broad purpose of this bill.

Now, in addition, the gentleman is arguing what I think is improper in his point of order. The gentleman is raising the point of committee jurisdiction. The gentleman says that this is not a matter within the jurisdiction of the gentleman's committee that has this bill here.

Well, I want to refer the Chair to page 369 of Deschler's Procedures, citation 416, which states that committee jurisdiction is not the exclusive or the absolute test of germaneness.

So I feel that based on Deschler's bible of procedure in our House, my amendment is not only germane, it is timely. It is proper and it is in order with what we are debating as the general scope and purpose of the legislation pending.

THE CHAIRMAN:[6] The Chair is ready to rule. The gentleman from Michigan and the gentleman from Ohio have made points of order against the amendment offered by the gentleman from Texas on the ground that it is not germane.

The gentleman from Texas replies with two citations from Deschler's Pro-

6. Richard Bolling (Mo.).

cedures, which appear to be to the point, but in the opinion of the Chair are not precisely on the specific point. There is not in this title of the bill, at least the Chair is unable to find a specific imposition of general import quotas on all petroleum products. There is not any specific imposition of general import quotas.

Furthermore, the Chair is of the opinion that in this particular case it is pertinent that the matter in the gentleman's amendment would properly be within the purview of the Committee on Ways and Means, rather than the Committee on Interstate and Foreign Commerce.

Therefore, on these grounds, relatively narrow grounds, the Chair rules that the points of order are valid and rules that the amendment is not in order.

Provisions Conferring Discretionary Authority To Restrict Exports of Energy Resources—Amendment To Prohibit Exportation of Petroleum Products for Particular Uses

§ 4.20 To a proposition conferring broad discretionary authority on an executive official, an amendment directing that official to take certain actions in the exercise of that authority is germane; thus, to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in military operations in Indochina was held germane as a delineation of the broad authority conferred by that substitute.

On Dec. 14, 1973,[7] during consideration of H.R. 11450 (the Energy Emergency Act), the Chair held the following amendment to be germane to the amendment in the nature of a substitute to which it was offered:

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Ms. Holtzman to the amendment in the nature of a substitute offered by Mr. Staggers: Page 45, insert after line 9:

"SEC. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia or Laos.". . .

7. 119 CONG. REC. 41753, 93d Cong. 1st Sess.

MR. [JAMES T.] BROYHILL of North Carolina: Mr. Chairman, I make the point of order that this amendment is not germane to the bill since it deals with a subject matter that is under the jurisdiction of other committees of the House of Representatives, the Committee on Armed Services and the Committee on Foreign Affairs, as an example. . . .

MS. HOLTZMAN: Mr. Chairman, I do desire to be heard on the point of order.

Mr. Chairman, certainly the subject of petroleum products seems to be within the jurisdiction of this committee since we have been debating this matter for at least 3 days. So I would urge that that subject is germane, and that my amendment is germane to the bill.

THE CHAIRMAN:[8] The Chair is prepared to rule.

The language of the amendment in the nature of a substitute which appears at the bottom of page 44 reads in part as follows:

> To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products. . . .

The amendment offered by the gentlewoman from New York (Ms. Holtzman) is a further delineation of that type of authority. Therefore the Chair overrules the point of order made by the gentleman from North Carolina (Mr. Broyhill).

8. Richard Bolling (Mo.).

Bill Providing for Tax Incentives To Conserve Energy—Amendment Prohibiting Purchase of Fuel Inefficient Automobiles by Federal Government

§ 4.21 To a bill reported from the Committee on Ways and Means providing for taxes and tax incentives to conserve energy, an amendment prohibiting the purchase or leasing of fuel inefficient autos by the federal government was held to be not germane, as being beyond the scope of the bill and as dealing with a subject (that of government purchases) properly within the jurisdiction of another committee.

During consideration of the Energy Conservation and Conversion Act of 1975[9] in the Committee of the Whole on June 13, 1975,[10] the Chair sustained a point of order against the following amendment:

> Amendment offered by Mr. Tsongas: Page 71 insert after line 20 the following:
>
> SEC. 312. PROHIBITION OF PURCHASE OF FUEL INEFFICIENT AUTOMOBILES BY THE FEDERAL GOVERNMENT.

9. H.R. 6860.

10. 121CONG. REC. 18816, 18817, 94th Cong. 1st Sess.

(a) Prohibition of Purchase of Fuel Inefficient Automobiles.—No agency of the Federal Government may purchase or lease any 1977 or later model year automobile if the fuel mileage rating of such automobile is less than the minimum fuel mileage standard applicable to such automobile.

(b) Minimum Fuel Mileage Standard.—For purposes of subsection (a)—the fuel mileage standard for a 1977 model year automobile shall be 17; for a 1978 automobile, 18; for a 1979 automobile, 19; for a 1980 or later model year automobile, 20.

(4) Fuel Mileage Rating.—The fuel mileage rating of any automobile shall be the fuel mileage rating determined for such automobile under section 4084(e) of the Internal Revenue Code of 1954 or, if such section does not apply with respect to such automobile, the fuel mileage rating of such automobile shall be determined under such section as if such section did apply to such automobile. . . .

MR. [AL] ULLMAN [of Oregon]: . . . I make the point of order that this amendment is not germane to the bill, on two counts.

First, there is nothing in either this title or the bill relating to Government purchases. Second, the matter contained in the amendment is not properly under the jurisdiction of the Committee on Ways and Means. It is not a tax matter, and therefore, it is nongermane to the bill. . . .

MR. [PAUL E.] TSONGAS [of Massachusetts]: Mr. Chairman, I would like to make three points in response to the point of order.

First, quite obviously, the thrust of my amendment is fuel efficiency. It refers to the same standards that we discussed on the floor and voted on with respect to the Sharp amendment, the Fisher amendment, and the Ottinger amendment among others.

My amendment applies to the standards of the U.S. Government as those amendments applied to the U.S. public and to automobile manufacturers, but the thrust of my amendment is fuel efficiency. That, indeed, is what this bill is all about.

Second, it does not authorize the Government purchase of automobiles, which would be the proper jurisdiction of the Committee on Government Operations. It simply sets standards of efficiency for Government vehicles as an aid to encourage conservation, which is the function of this bill and the function of the Committee on Ways and Means.

Third, it is, in a sense, a revenue amendment in that it refers to savings, both in terms of the purchase of automobiles and of gasoline by the U.S. Government, and thus does come properly under the domain of the Committee on Ways and Means and in that committee's jurisdiction. . . .

THE CHAIRMAN:[11] The Chair is ready to rule.

The amendment offered by the gentleman from Massachusetts (Mr. Tsongas) provides in part as follows:

> Prohibition of Purchase of Fuel Inefficient Automobiles.—No agency of the Federal Government may purchase or lease any 1977 or later model year automobile if the fuel mileage rating of such automobile is less than the minimum fuel mileage standard application to such automobile.

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11. William H. Natcher (Ky.).

There is nothing in the bill that deals with purchasing and leasing authority, the Chair would have to advise the gentleman from Massachusetts (Mr. Tsongas); and in addition, the subject matter of Government purchases is not within the jurisdiction of the committee in charge of the bill on the floor, the Committee on Ways and Means.

Therefore, the point of order must be sustained.

Energy Conservation—Fusion Research

§ 4.22 To a title of a bill reported from the Committee on Interstate and Foreign Commerce entitled "Conversion from Oil or Gas to other fuels," but referring only to industrial conversion from oil or gas to coal, an amendment adding a new section increasing the authorization of the Energy Research and Development Administration to promote the practical application of fusion energy (a matter within the jurisdiction of the Joint Committee on Atomic Energy and not within the scope of the title of the bill), was held to be not germane.

On Sept. 18, 1975,[12] during consideration of the Energy Conservation and Oil Policy Act of 1975[13] 13 in the Committee of the Whole, Chairman Richard Bolling, of Missouri, sustained a point of order against an amendment to the pending title of the bill:

TITLE VI—CONVERSION FROM OIL OR GAS TO OTHER FUELS

Sec. 601. Extension of authority to issue orders.

Sec. 602. Extension of enforcement authority. . . .

Sec. 606. Incentives to open new underground mines producing low sulfur coal. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: On page 338, after line 25, insert a new section.

"Sec. 607. An additional $100,000,000 is authorized for the Energy Research and Development Administration for a high priority program exclusively geared to the practical application of fusion energy."

MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Michigan reserves a point of order.

MR. [MIKE] MCCORMACK [of Washington]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Washington reserves a point of order. . . .

12. 121 CONG. REC. 29333–35, 94th Cong. 1st Sess.

13. H.R. 7014.

MR. MCCORMACK: Mr. Chairman, my point of order is that the amendment comes to the wrong bill and to the wrong committee. The authorization for nuclear research should come to the Joint Committee on Atomic Energy and the Energy Research and Development Administration. . . .

I make my point of order, Mr. Chairman, on the ground that this amendment is out of order because the jurisdiction falls exclusively with the Joint Committee on Atomic Energy and the Energy Research and Development Administration.

THE CHAIRMAN: The gentleman from Michigan (Mr. Dingell) also reserved a point of order against the amendment.

Does the gentleman wish to be heard on his point of order?

MR. DINGELL: . . . I would like to commend my good friend, the gentleman from Texas (Mr. Gonzalez) for offering what I think is a very well written amendment. Unfortunately, no hearings have been held on it, and it has not been considered.

I would point out to the body that the germaneness rule requires that the character of the amendment be such that the membership would have reasonably been apprised that amendments of that sort might be placed before the body. Unfortunately, the character of the amendment is such that it provides certain authorities for ERDA, the Energy Research and Development Agency.

Unfortunately, I do not think there is any way that anyone here could have anticipated amendments dealing with adding authorities or changing authorities within ERDA. . . .

MR. GONZALEZ: . . . In arguing the point of germaneness, I will address myself first to the remarks of the gentleman from Washington (Mr. McCormack). . . .

If we are going to debate on a point of order the merits of the amendment, it is contrary to the clear indication in Deschler's Procedure, one of which decisions I quoted yesterday, on page 73, which says that one does not look to the material content of the general purposes of the bill to determine the specificity—there is a good Watergate word—the specificity of the pending amendment.

The gentleman says, "This is the wrong church, the wrong pew. It ought to go over here into another bill.". . .

Facetiously, let me say that we can make that comment about the last 6 months and say that this bill before the committee has been in the wrong committee and in the wrong place for the last 6 months.

Let me say, however, that in Deschler's Procedure, both cases that I cited yesterday in the Record clearly control the situation here.

I cannot think of anything more germane than this amendment to the section of the bill that is talking about research and development. It is actually authorizing moneys for that purpose. . . .

As to the point of the second gentleman, the gentleman from Michigan (Mr. Dingell), his contention again comes repetitiously as yesterday. He talks about the sanctity of committee jurisdiction. Deschler's Procedure and particularly that citation I quoted yesterday clearly says that that shall not be a governing factor in determining whether or not an amendment is germane to a pending bill. The jurisdic-

tion of a committee is not the controlling factor with respect to germaneness. . . .

THE CHAIRMAN: The Chair is ready to rule.

The title of title VI is exceptionally broad, in the opinion of the Chair.

If the content of title VI were as broad as the title, the Chair believes that the arguments of the eloquent gentleman from Texas (Mr. Gonzalez) might bear more weight. But it is the content of the pending title and not its heading against which the germaneness of the amendment must be weighed.

The Chair has had the opportunity to examine with some care all of title VI and also language on pages 17 and 18 of the committee report which deals with title VI. The Chair will not read from those words except to say that the Chair only refers to those words in that they support his view that title VI actually deals with the conversion from oil or gas to coal and thus the scope of the title is quite narrow. The amendment therefore does not fit the rule of germaneness despite the eloquence of the gentleman from Texas and the Chair feels compelled to rule that the amendment is not germane to title VI and therefore sustains the various points of order.

Parliamentarian's Note: As the Chair indicates above, the scope of a title of a bill is determined by the provisions contained therein, not by the phraseology of the formal heading of the title.

Provisions Establishing Procedures for Designating Priority Projects Within Synthetic Fuels Program—Amendment Authorizing Temporary Waivers of Laws Inconsistent With Projects

§ 4.23 For an amendment establishing procedures for designating priority projects within a federally financed synthetic fuels program and expediting procedural decision-making deadlines, but not waiving substantive laws that might affect completion of those projects, a substitute amendment authorizing the president to waive any provision of law (if not disapproved by Congress) inconsistent with the approval, construction and operation of synthetic fuel projects was held not germane as a prospective temporary repeal of those substantive laws within the jurisdiction of other committees and beyond the narrow class of procedural waivers in the original amendment.

On June 26, 1979,[14] the Committee of the Whole had under consideration an amendment to

14. 125 CONG. REC. 16683–86, 96th Cong. 1st Sess.

the Defense Production Act Amendments of 1979 (H.R. 3930) when the following substitute for the amendment was offered and, a point of order having been raised, was held to be not germane:

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio as a substitute for the amendment offered by Mr. Udall: Page 8, after line 13, insert the following new subsection:

"(g)(1) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorize, the construction or operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section shall, to the maximum extent practicable—

"(A) expedite all actions necessary for the issuance of such permit, approval, or authorization, and

"(B) take final action thereon not later than 12 months after the date application for such permit, approval, or authorization is made.

After taking final action on any such permit, approval, or authorization, such officer or agency shall publish notification thereof in the Federal Register.

"(2)(A) Within 6 months after the date of the enactment of this section, and from time-to-time thereafter, the President shall—

"(i) identify those provisions of Federal law or regulations (including any law or regulation affecting the environment or land leasing policy) which the President determines should be waived in whole or in part to facilitate the construction and operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section; and

"(ii) submit any such proposed waiver to both Houses of the Congress.

"(B) The provisions of law so identified shall be waived with respect to the construction and operation of such facility to the extent provided for in such proposed waiver if 60 days of continuous session of Congress have expired after the date such notice was transmitted and neither House of the Congress has adopted during that period of continuous session a resolution stating in substance that such House disapproves of that waiver. The term 'continuous session of Congress' shall have the same meaning as given it in section 301 of this Act.".

Redesignate the following provisions accordingly. . . .

THE CHAIRMAN:[15] Does the gentleman from Oregon (Mr. Weaver) insist on his point of order?

MR. [JAMES] WEAVER [of Oregon]: I do, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. WEAVER: Mr. Chairman, the amendment says the President shall identify provisions of Federal law or regulations. They are unidentified law or regulations, other than to say they deal with the environment and land use policy.

If these provisions of law so identified are submitted to the Congress, they will be waived. In other words, it affects law outside the bill we have before us. It amends unidentified law. . . .

15. Gerry E. Studds (Mass.).

MR. BROWN of Ohio: . . . Mr. Chairman, I rise in opposition to the point of order raised against my amendment.

My amendment is clearly germane not only to the bill before us but also to the Defense Production Act which the bill amends. On page 5 of this very bill, lines 17 through 21, language similar to that contained in my amendment can be found, and I quote:

> (c) Purchases, commitments to purchase, and resales under subsection (b) may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods as the President deems necessary . . .

And then it goes on, and the quotation is ended.

That relates to what I offer in my amendment with reference to the President and his opportunity to waive existing law.

Similar language to that in my amendment providing for waiver of existing laws can be found in title 3 of the Defense Production Act which section 3 of H.R. 3930 would amend.

Mr. Chairman, the Defense Production Act is a very broad bill inasmuch as it deals with our national defense. Title 50, United States Code, section 2091, says, and I quote:

> Without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts.

My amendment is a broad waiver provision, but it is no broader than those waiver provisions found in the Defense Production Act and in section 3 of H.R. 3930, which again is designed to amend the Defense Production Act.

Therefore, Mr. Chairman, I would argue to the Chair that my amendment is germane. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The waivers of existing law found both in the amendment offered by the gentleman from Arizona (Mr. Udall) and in the bill and statute itself are, in the judgment of the Chair, waivers with respect to a very narrow class of existing law. The statute itself makes reference to provisions of law relating to the "making, performance, amendment, or modification of contracts," a specific reference to a narrow phase of law.

The Chair would cite Deschler's Procedure, chapter 28, section 33:

> To a bill temporarily amending for one year an existing law establishing price supports for several agricultural commodities, an amendment waiving the provisions of another law relating to price supports for another agricultural commodity was construed to directly change a law not amended by the pending bill and thus to include a commodity outside the class of those covered by the bill and was ruled not germane.

The amendment offered by the gentleman from Arizona (Mr. Udall) does not purport to waive all inconsistent Federal statutes. The substitute offered by the gentleman from Ohio (Mr. Brown) would permit waiver of all provisions of law within the jurisdiction of other committees and is, in the opinion of the Chair, therefore, in effect a temporary prospective repeal of any other law which otherwise would interfere with the construction of any facility financed by this bill, and the Chair sustains the point of order.

Bill Providing for Synthetic Fuel Program for Defense Purposes—Amendment Requiring Commercial Fuels To Contain Certain Percentage of Synthetic Fuel

§ 4.24 Where a bill pending before the Committee of the Whole amended the Defense Production Act to direct the President to achieve a national production goal of synthetic fuels to meet defense purposes, and there was pending an amendment only to increase the amount of that goal and to provide funding to meet that goal, a substitute for the amendment requiring that any fuel sold in commerce contain a certain percentage of synthetic fuel, and requiring the Secretary of Energy to promulgate regulations setting such percentage, was held not germane as going beyond the scope of the amendment and containing matter not within the jurisdiction of the reporting committee (Banking, Finance and Urban Affairs).

During consideration of the Defense Production Act Amendments of 1979 (H.R. 3930) in the Committee of the Whole on June 26, 1979,[16] amendments offered as a substitute for pending amendments were ruled out as going beyond the scope of the pending amendment and therefore not germane. The proceedings were as follows:

The Clerk read as follows:

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

Sec. 3. (a) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091) . . . .

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 305. (a) The President, utilizing the provisions of this Act and any other applicable provision of law, shall attempt to achieve a national production goal of at least 500,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than five years after the effective date of this section. The President is authorized and directed to require fuel and chemical feedstock suppliers to provide synthetic fuels and synthetic chemical feedstocks in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. . . .

(c) Not later than July 1, 1981, the Secretary shall prescribe, by rule, the minimum percentage replacement fuel, by volume, required to be contained in the total quantity of gasoline and diesel fuel sold each year in commerce in the United

16. 125 CONG. REC. 16663, 16668, 16673, 16674, 96th Cong. 1st Sess.

17. Gerry E. Studds (Mass.).

States in calendar years 1982 through 1986 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines—

(1) is technically and economically feasible, and

(2) will result in steady progress toward meeting the requirements under this section for calendar year 1987. . . .

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Wright: Page 5, line 2, strike out the period after "section" and insert in lieu thereof "and at least 2,000,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than ten years after the effective date of this section."

Page 10, line 23, strike "appropriated $2,000,000,000" and insert in lieu thereof "appropriated from general funds of the Treasury not otherwise appropriated or from any fund hereafter established by Congress after the date of enactment of this sentence not to exceed $3,000,000,000". . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer amendments as a substitute for the amendments.

The Clerk read as follows:

Amendments offered by Mr. Jeffords as a substitute for the amendments offered by Mr. Wright: Page 5, line 8, add new subsections "(b)" through "(f)".

(b) Of the total quantity of gasoline and diesel fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel shall constitute the minimum percentage determined in accordance with the following table: . . .

[In calendar years 1982 through 1986, the percentage determined by the Secretary under subsection (b) of this section; 1987, 1988, and 1989, 10 per cent (etc.)]

MR. [WILLIAM S.] MOORHEAD of Pennsylvania: Mr. Chairman, as much as I support the concept of the substitute of the gentleman from Vermont—I believe I am a cosponsor of his bill—I do not believe it is a proper part of this legislation in that it is not germane.

First, it is not germane to the Wright amendment which is a production amendment and a defense production amendment.

This amendment is a regulatory amendment dealing with "replacement fuels sold in commerce." It is not a production bill.

The same language is contained further down. It regulates the amount of synthetic fuel and diesel fuel sold each year in commerce in the United States and the guts of the bill are regulatory, rather than production aimed. Therefore, this amendment is not germane to the Wright amendment or to the bill. . . .

MR. JEFFORDS: Mr. Chairman, it seems to me that once the Wright amendment has been agreed to as being part of the bill, then a substitute which goes well beyond the original concept of the bill is also germane and in order.

I would point out that the Wright amendment, as I have said before, takes us totally out of just the needs for the Federal Government and goes

out into the area of sales in commerce. I think because the Wright amendment is being considered as germane, the substitute should also.

THE CHAIRMAN:[17] The Chair is prepared to rule.

The amendment offered by the gentleman from Texas goes to goals for defense production of synthetic fuels and to the funds to achieve those goals. The amendment offered by the gentleman from Vermont, for reasons stated by the gentleman from Pennsylvania, is not solely related to defense production but rather goes to all diesel fuel and gasoline sold in commerce whether defense related or not and does not speak solely to the production of synthetic fuels for defense purposes. It is therefore beyond the scope of the Wright amendment and is not germane, and the Chair is also constrained to point out the subject matter of the amendment offered by the gentleman from Vermont does not lie within the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

For the foregoing reasons the Chair sustains the point of order.

Bill To Provide Financial Assistance for Synthetic Fuel Development for Defense Needs—Amendment Providing for Expedited Approval of Designated Projects Under Bill

§ 4.25 To a section of a bill amending the Defense Production Act providing financial assistance for synthetic fuel development to meet national defense needs, an amendment providing expedited review and approval of certain designated priority projects to be financed by the bill, thereby affecting time periods for procedural review specified in other laws, but not waiving provisions of substantive law which might prohibit completion of such projects, was held germane as not affecting substantive environmental or energy laws within the jurisdiction of other committees.

On June 26, 1979,[18] during consideration of the Defense Production Act Amendments of 1979[19] in the Committee of the Whole, Chairman Gerry E. Studds, of Massachusetts, overruled a point of order and held the following amendment to be germane:

Amendment offered by Mr. Udall: Page 8, after line 13 add the following new subsection and renumber the subsequent sections accordingly:

(g)(1)) The Secretary of Energy is hereby authorized to designate a pro-

17. Gerry E. Studds (Mass.).

18. 125 CONG. REC. 16681–83, 96th Cong. 1st Sess.

19. H.R. 3930.

20. 131 CONG. REC. 17810, 99th Cong. 1st Sess.

posed synthetic fuel or feedstock facility as a priority synthetic project pursuant to the procedures and criteria provided in this section. . . .

(h)(1) Any person planning or proposing a synthetic fuel or feedstock facility may apply to the Secretary of Energy for an order designating such facility as a priority synthetic project. . . .

(i) Not later than forty-five days after receipt of an application authorized under the previous section, the Secretary shall determine whether the proposed synthetic fuel or feedstock facility is of sufficient national interest to be designated a priority synthetic project. Upon reaching a determination the Secretary shall publish his decision in the Federal Register and shall notify the applicant and the agencies identified in subsection (h)(3). In making such a determination the Secretary shall consider—

(1) the extent to which the facility would reduce the Nation's dependence upon imported oil;

(2) the magnitude of any adverse environmental impacts associated with the facility and the existence of alternatives that would have fewer adverse impacts; . . .

(7) the extent to which the applicant is prepared to complete or has already completed the significant actions which the applicant in consultation with the Deputy Secretary anticipate will be identified under subsection (l) as required from the applicant; and

(8) the public comments received concerning such facility. . . .

(l) Not later than thirty days after notice appears in the Federal Register of an order designating a proposed synthetic fuel or feedstock facility as a priority synthetic project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion of such project or any part thereof, shall transmit to the Secretary of Energy and to the priority energy project—

(1) a compilation of all significant actions required by such agency before a final decision or any necessary approval(s) can be rendered;

(2) a compilation of all significant actions and information required of the applicant before a final decision by such agency can be made;

(3) a tentative schedule for completing actions and obtaining the information listed in subsections (1) and (2) of this subsection;

(4) all necessary application forms that must be completed by the priority energy project before such approval can be granted; and

(5) the amounts of funds and personnel available to such agency to conduct such actions and the impact of such schedule on other applications pending before such agency.

(m)(1) Not later than sixty days after notice appears in the Federal Register of an order designating a synthetic fuel or feedstock facility as a priority synthetic project, the Secretary, in consultation with the appropriate Federal, State and local agencies shall publish in the Federal Register a Project Decision Schedule containing deadlines for all Federal actions relating to such project. . . .

(3) All deadlines in the Project Decision Schedule shall be consistent with the statutory obligations of Federal agencies governed by such Schedule.

(4) Except as provided in subparagraph (3) above and in subsection (p) no deadline established under this section or extension granted under subparagraph (5) of the section may result in the total time for agency action exceeding nine months beginning from the date on which notice appears in the Federal Register of an order designating the proposed synthetic fuel or feedstock facility as a priority synthetic project.

(5) Notwithstanding any deadline or other provision of Federal law, the deadlines imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines for reviewing applications filed by the priority synthetic project. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment offered by my good friend from Arizona is not germane. . . .

Mr. Chairman, it is well settled the amendment must be germane not only to the section but also to the bill.

Mr. Chairman, the bill relates to the Defense Production Act.

Mr. Chairman, under the amendment, a lengthy process is established whereunder the Secretary of Energy, who is not mentioned elsewhere in the bill, is authorized to designate synthetic fuel or feedstocks facilities as priority synthetic projects, pursuant to lengthy criteria which are set forth at the first and second pages and following.

So, Mr. Chairman, there is a whole range of broad new responsibilities imposed on the Secretary of Energy not found elsewhere, either in the Defense Production Act or in the bill before us, which are quite complex, very obvious, and which involve a lengthy amount of work and which involve amendment either directly or indirectly of a large number of Federal, State, and local statutes dealing with the project and permitting the project.

There is also an extensive procedural responsibility on both the Secretary and one which is imposed on the Governor of the State in which the action would occur.

For that reason, Mr. Chairman, a Member of this body could not very well anticipate as would be required by the rules of germaneness that an amendment of this sweep and breadth could be visited upon us. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, a further point of order. . . .

I make a point of order against the amendment for the following reasons: The bill before us, H.R. 3930, amends the Defense Production Act of 1950 and it does so by extending the authority of the act and also providing for the purchase of synthetic fuels and synthetic chemical feed stock and for other purposes. An examination of the other purposes reveals nothing akin to the amendment before us. The amendment before us in effect seeks to apply the National Environmental and Policy Act of 1969, specifically on page 5 in subparagraph (d) to the facilities that would contract with the Government.

It appears to me that by attempting to do this, this is beyond the scope of the jurisdiction of this committee. It is within the scope of other committees' jurisdictions and certainly beyond the scope of the bill, which simply deals with contracts and purchases and not

the environmental qualities or activities of the people who seek to contract with the Government.

Therefore, the amendment is not germane and beyond the scope of the bill. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . The pending bill creates authority to finance directly and indirectly synthetic fuel and chemical feed stocks, feedstock projects. . . .

What my amendment does is not to change any of the existing laws. It does not change any environmental protection laws or anything else, but it says we are going to have decisions. Within nine months after this is put on the fast track, we are going to get a yes or no decision on it. . . .

This amendment simply supplements the existing statutory procedures to achieve expedited approval or disapproval of various authorities necessary for the completion of synfuel projects created under the authority of the legislation; so the subject matter of the amendment is germane to the subject of the pending legislation. The point of order ought to be rejected, Mr. Chairman.

THE CHAIRMAN: The Chair is prepared to rule.

The bill before the committee bestows authority for loan guarantees to finance synthetic fuel or feedstock facility construction. The amendment of the gentleman from Arizona establishes a complex mechanism for expediting procedures for projects financed by loan guarantees under the bill.

The Chair is unable in response to the gentleman from Maryland to find any respect in which the amendment of the gentleman from Arizona would amend the National Environmental Protection Act, but merely provides that determinations made as to priority of synthetic projects eligible for expeditious review shall not be considered major Federal actions under that law.

In the opinion of the Chair, the totality of the Udall amendment constitutes essentially an expediting of procedures under authorities provided for in the bill and is, therefore, germane.

The Chair overrules the point of order.

Bill Relating to Military and National Defense Policy—Amendment Directing President To Submit Reports on Soviet Union's Compliance With Arms Control Agreements

§ 4.26 To a title of a bill containing matters within the jurisdiction of the committee reporting the bill, an amendment dealing solely with a matter within the jurisdiction of another committee is not germane; thus, to a title of a bill reported from the Committee on Armed Services, containing diverse provisions relating to national defense policy, military procurement and personnel, and amended to include conditions and restrictions on procurement funds in the bill that had reference to certain

considerations of foreign policy, an amendment directing the President to submit reports on the Soviet Union's compliance with its arms control commitments, a matter exclusively within the jurisdiction of the Committee on Foreign Affairs, was held not germane.

During consideration of H.R. 1872 (the Defense Authorization, fiscal 1986) in the Committee of the Whole on June 27, 1985,[20] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

MR. [JAMES A.] COURTER [of New Jersey]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Courter: At the end of part C of title X (page 176, after line 8) insert the following new section:

sec. 1024. annual report on soviet compliance with arms control commitments.

Not later than December 1, 1985, and not later than December 1 of each year thereafter, the President shall submit to the Congress a report containing an update (since the most recent report to the Congress on the subject) of the President's findings regarding the Soviet Union's compliance with its arms control commitments, together with such additional information regarding the Soviet Union's compliance with its arms control commitments as may be necessary to keep the Congress currently informed on such matter. The President shall submit classified and unclassified versions of such report to the Congress each year. . . .

MR. [NORMAN D.] DICKS [of Washington]: . . . Mr. Chairman, I think this amendment is not germane to this particular piece of legislation and falls within the purview of the Foreign Affairs Committee.

Therefore, I would make my point of order and ask that it be sustained. . . .

MR. COURTER: There was, Mr. Chairman, an amendment by the gentleman from Pennsylvania [Mr. Foglietta] that was passed by this body. That amendment was concerning strategic defense initiatives. The last couple lines of that amendment, which is now part of the bill that we are considering says: "in a manner inconsistent with the Limited Test Ban Treaty, the Threshold Test Ban Treaty, the Outer Space Treaty, or the ABM Treaty."

Therefore, since the bill has been opened up with regard to treaties, I think that my amendment is valid and no point of order lies. . . .

THE CHAIRMAN PRO TEMPORE:[1] The Chair is prepared to rule.

The Chair will state that the gentleman's amendment directs that the President make findings on the Soviet Union's compliance with its arms control commitments. That is not within the jurisdiction of the Armed Services Committee. It is solely within the jurisdiction of the Foreign Affairs Com-

20. 131 CONG. REC. 17810, 99th Cong. 1st Sess.

1. Marty Russo (Ill.).

mittee, and the Chair sustains the point of order of the gentleman from Washington. . . .

After the ruling, the Chair responded to parliamentary inquiries:

THE CHAIRMAN PRO TEMPORE: The Chair will entertain a parliamentary inquiry from the gentleman from New Jersey [Mr. Courter].

MR. COURTER: I thank the Chair.

The parliamentary inquiry is whether this has been now broadened to include arms control agreements because an amendment has been adopted that in fact refers to arms control agreements, thus making my amendment permissible.

THE CHAIRMAN PRO TEMPORE: The Chair will advise the gentleman from New Jersey [Mr. Courter] that the Foglietta amendment to title II did not legislate on another country's commitment to its treaties; it merely made a linkage between funding for certain weapons systems in space in a manner consistent with U.S. treaty obligations and, therefore, the Chair felt that the Courter Amendment did not deal with the issues within the jurisdiction of the Armed Services Committee and sustained the point of order.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. WALKER: Mr. Chairman, as the Chair knows, the bill was broadened to include areas within the jurisdiction of the Foreign Affairs Committee several amendments ago when we had an amendment passed relating to Afghanistan. Given the fact that the bill has already been broadened, would that not also play a role in making the gentleman's particular amendment germane?

THE CHAIRMAN PRO TEMPORE: The Chair will state to the gentleman from Pennsylvania [Mr. Walker] the Chair is not aware of the fact that title X of the bill has been broadened to such an extent. That amendment referred to Defense Department equipment and its availability to Afghan refugees.

Parliamentarian's Note: The amendment to title II, which was the subject of Mr. Courter's inquiry, technically had no bearing on the germaneness of amendments to title X, but in any event none of the amendments cited contained matters exclusively within the jurisdiction of the Committee on Foreign Affairs, but were conditions on military funding.

Bill Requiring Information on Weapons Systems From Director of Arms Control Disarmament Agency—Amendment Prohibiting Agreements for Export of Any Nuclear Material Prior to Report to Congress

§ 4.27 To a section of a bill reported from the Committee on International Relations directing the Director of the Arms Control Disarmament

Agency to collect and transmit to Congress information on weapons systems, including certain military uses of nuclear material, an amendment prohibiting agreements for export of any nuclear material prior to a report to Congress on the impact of such transfers on arms control and disarmament policies was held to be a matter within the jurisdiction of the Joint Committee on Atomic Energy and to go beyond the scope of the section by including material with nonmilitary uses, and was held to be not germane.

On July 9, 1975,[2] during consideration of the Arms Control and Disarmament Act Amendments of 1975[3] in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above. The pending section of the bill and the amendment offered thereto were as follows:

ARMS CONTROL AND DISARMAMENT IMPACT STATEMENT

Sec. 103. Title III of the Arms Control and Disarmament Act (22 U.S.C. 2571–2575) is amended by adding at the end thereof the following:

ARMS CONTROL IMPACT INFORMATION AND ANALYSIS

"Sec. 36. (a) In order to assist the Director in the performance of his duties with respect to arms control and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

"(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

"(A) an estimated total program cost in excess of $250,000,000, or

"(B) an estimated annual program cost in excess of $50,000,000, or

"(2) any other program involving weapons systems or technology which such Government agency or the Director believes may have a significant impact on arms control and disarmament policy or negotiations, shall, on a continuing basis, provide the Director with full and timely access to detailed information, in accordance with the procedures established pursuant to section 35 of this Act, with respect to the nature, scope, and purpose of such proposal.

"(b)(1) The Director, as he deems appropriate, shall assess and analyze each program described in subsection (a) with respect to its impact on arms control and disarmament policy and negotiations, and shall advise and make recommendations, on the basis of such assessment and analysis, to the National Security Council, the Office of Management and Budget, and the Government agency proposing such program.

"(2) Any request to the Congress for authorization or appropriations for—

2. 121 CONG. REC. 21853, 21854, 94th Cong. 1st Sess.

3. H.R. 49.

"(A) any program described in subsection (a)(1), or

"(B) any program described in subsection (a)(2) and found by the National Security Council, on the basis of the advice and recommendations received from the Director, to have a significant impact on arms control and disarmament policy or negotiations, shall include a complete statement analyzing the impact of such program on arms control and disarmament policy and negotiations.

"(3) Upon the request of any appropriate committee of either House of Congress, the Director shall, after informing the Secretary of State, advise the Congress on the arms control and disarmament implications of any program with respect to which a statement has been submitted to the Congress pursuant to paragraph (2). . . .

MR. [PAUL] SIMON [of Illinois]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon: Page 4, strike out the close quotation mark and the final period at the end of line 18 and insert immediately after such line the following:

"REPORTS ON SALES TO FOREIGN COUNTRIES OF NUCLEAR MATERIALS

"Sec. 37. No agreement between the United States and any foreign country providing for the sale or other transfer to such country of any nuclear material may be entered into, and no license for the sale or other transfer to any foreign country of any nuclear material may be issued, unless the Director had submitted a report analyzing the impact of such sale or other transfer on arms control and disarmament policies and negotiations to the National Security Council, and the Congress.". . . .

MR. [MIKE] MCCORMACK [of Washington]: Madam Chairman, I make a point of order against the amendment. The amendment deals with agreements that provide for the transfer of nuclear materials to foreign countries. This subject is under the jurisdiction of the Joint Committee on Atomic Energy. In terms of legislation, such transfers come within the purview of the Atomic Energy Act.

H.R. 7567 deals with the Arms Control and Disarmament Agency, whose main purpose is to authorize appropriations for that agency for the fiscal years 1976 and 1977.

In addition, the bill deals with the functions of the Director of the Arms Control and Disarmament Agency, requires various executive agencies to submit information about weapons systems to the Director, and requires the Director to submit certain information to the Congress.

The bill, H.R. 7567, which is now before us, does not deal with nuclear energy or the transfer of nuclear materials to other countries.

The words "nuclear materials," Madam Chairman, includes not only weapons material, it includes all isotopes, all pacing materials for people's hearts, and military and research material, all industrial and agricultural isotopes, all fuel for nuclear reactors of the Western European countries, and Japan.

Thus the amendment is much broader in scope than the bill.

Finally, section 123(d) of the Atomic Energy Act requires that all major agreements made by ERDA go to the

State Department and to the President, and then come to the Congress for 60 days for approval. They come directly to the Joint Committee on Atomic Energy. They lay on the House table for 30 days, and there is an automatic vote required on them within the last 5 days of that 30-day period. . . .

MR. SIMON: . . . This bill sets forth certain responsibilities for the Director of this Agency. In any bill setting forth responsibilities there will be overlaps, and there are overlaps with other agencies, as in section 36(a) in this bill. But clearly, we are defining the responsibilities of the Director of this agency. . . .

THE CHAIRMAN:[4] The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois goes to an issue which is peculiarly and specifically within the jurisdiction of the Joint Committee on Atomic Energy. The question of agreements on export sales of nuclear material is not within the purview of this bill and is not germane to section 103 of this bill. Section 103 merely requires the furnishing of information regarding the development of defense systems, and it does not extend in any manner to a prohibition of exportation of all nuclear materials.

Some nuclear materials may be in different classes, as was pointed out by the gentleman from Washington. There may be some nuclear material exported for peaceful purposes. In that regard the amendment offered by the gentleman from Illinois is not germane to section 103, is much too all inclusive in its effect, and the point of order is sustained.

4. Barbara Jordan (Tex.).

Bill Authorizing Funds for Weapons Development—Amendment Prohibiting Use of Funds Until President Resumes Arms Control Initiatives

§ 4.28 It is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving issues within the jurisdiction of agencies and committees outside the purview of the pending bill; thus, to a title of a bill authorizing appropriations for research on and development of military weapons, an amendment prohibiting the use of those funds for development of a certain weapon until the President resumes treaty initiatives toward arms control was held to be not germane.

During consideration of the Department of Defense Authorization for fiscal year 1982[5] in the Committee of the Whole on July 9, 1981,[6] the Chair sustained a point of order against the following amendment:

Amendment offered by Mr. Bedell: After section 203 insert the following new section:

5. H.R. 3519.

6. 127 CONG. REC. 15218, 97th Cong. 1st Sess.

LIMITATION ON FUNDS FOR MX MISSILE

Sec. 204. None of the funds authorized to be appropriated by section 201 may be obligated or expended for the full-scale development of an operational basing mode for the MX missile until the President—

(1) has completed his review of previous strategic arms limitation (SALT) negotiations;

(2) is prepared to resume strategic arms limitation negotiations with the Soviet Union, one of the principal aims of such negotiations being to establish a limit on the number of intercontinental ballistic missile launchers and deployable warheads available to both sides; and

(3) formally transmitted to the Soviet Union his desire to resume such negotiations.

MR. MELVIN PRICE (of Illinois): Madam Chairman, I make a point of order against the amendment. . . .

It is a violation of House rule 16 regarding germaneness. That rule requires instructions, qualifications, and limitations to be germane to the provisions of the bill.

It is my contention that the condition here is totally unrelated to the provisions of the bill and in fact lies within the jurisdiction of another committee. . . .

MR. [BERKLEY] BEDELL [of Iowa]: . . . Madam Chairman, I am not a specialist on rules, but it would appear to me very clearly that for us to say that we are not going to spend money on a system which would not be of value unless something else happens is perfectly germane and perfectly proper for us to do.

We do it in our small business disaster loans when we say small business disaster loans will not be made unless the Governor of the State declares there has been a disaster therein.

We do the same thing in regard to disaster payments for agriculture when we say that the people will not be eligible unless Federal crop insurance is there.

It appears to me that we have clearly pointed out in the debate that we have had that without SALT II it is at least questionable as to whether MX makes any sense at all, and if we do have rules in the House which say that we cannot have amendments which say that we will not spend money on something that is going to be valueless unless something occurs, if we have amendments that say that we cannot make the spending contingent upon that action which would be necessary to make the expenditure of any value, then I submit that we had better look at the rules of the House. . . .

THE CHAIRMAN PRO TEMPORE:[7] . . . [T]he Chair is prepared to rule on the point of order.

The amendment makes use of funds for the MX missile dependent upon certain actions by the President relative to the SALT negotiations. Since arms control issues are within the jurisdiction of the Foreign Affairs Committee and not the Armed Services Committee, and for same reasons stated by the Chair yesterday, in sustaining a point of order against the amendment offered by the gentleman from Washington, the Chair sustains the point of order of the gentleman from Illinois.

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7. Marilyn Lloyd Bouquard (Tenn.).

Bill Amending Laws on Military Procurement—Amendment Relating to Contracts Entered Into by Defense Department and Other Agencies

§ 4.29 To a title of a bill reported from the Committee on Armed Services amending several laws within the jurisdiction of that committee on the subject of military procurement and military departments, an amendment amending and extending the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and covering not only the Department of Defense procurement contract profits but also contracts entered into by other agencies not within the jurisdiction of the Committee on Armed Services was held to be not germane.

On June 26, 1985,[8] during consideration of the Defense Department Authorization, fiscal 1986,[9] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: At the end of Title VIII (page 143, after line 19), add the following new section:

SEC. 802. WAR PROFITEERING PROHIBITION ACT.

(a) Section 102 of the Renegotiation Act of 1951 (50 U.S.C. App. 1212) is amended by adding at the end thereof the following:

"(f) Certain Amounts Received After October 1, 1985.—Notwithstanding the provisions of subsection (a), the provisions of this title shall not apply to contracts with Departments, or related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor during the period beginning on October 1, 1985, and ending on the date of the enactment of this subsection.".

(b) The last sentence of section 102(c)(1) of the Renegotiation Act of 1951 (50 U.S.C. App. 1212(c)(1)) is amended to read as follows: "For purposes of this title, the term 'termination date' means September 30, 1988.". . . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: . . . I make a point of order on the amendment offered by the gentleman from Texas, in that it is nongermane under the rule. The subject matter falls principally outside the jurisdiction of this committee, and the Renegotiation Act to which the amendment applies includes a variety of departments in the executive branch over which this committee has no jurisdiction or oversight or authority, and nothing in this bill pertains to it or would give rise to the amendment.

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8. 131 CONG. REC. 17417–19, 99th Cong. 1st Sess.

9. H.R. 1872.

So I would insist, reluctantly, on my point of order. The amendment is well intended, and I cannot argue with the thrust of that either, but I do think at this point (it) is not germane, and I do insist upon my point of order. . . .

THE CHAIRMAN PRO TEMPORE:[10] The Chair is prepared to rule on the gentleman's point of order.

The amendment would make certain changes in, and extend the provisions of, the Renegotiation Act of 1951. That act was originally in the jurisdiction of the Committee on Ways and Means, but the Committee Reform Amendments of 1974 transferred specific jurisdiction over renegotiation to the Committee on Banking, Finance and Urban Affairs. The act covers contracts for procurement and construction necessary for the national defense, but the act covers not only the Department of Defense and the military departments, but also the Maritime Administration, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, and such other agencies having a connection with the national defense as the President may designate. The title of the bill under consideration deals with procurement for the Department of Defense and the military departments, and not with other agencies outside the jurisdiction of the Committee on Armed Services.

Since the subject matter of the amendment goes beyond the coverage of the title and bill under consideration, and since it falls squarely within the jurisdiction of another committee, the Chair sustains the point of order.

10. Marty Russo (Ill.).

Defense Production Act—Amendment Establishing Committee To Consult With President on Administration of Act

§ 4.30 To the Defense Production Act of 1950, establishing a system of priorities and allocations for materials and facilities, an amendment proposing the establishment of a joint committee to consult with the President with respect to the administration of the act, was held not germane.

In the 81st Congress, during consideration of the Defense Production Act of 1950,[11] the following amendment was offered:[12]

> Amendment offered by Mrs. [Katharine P. C.] St. George [of New York] to the amendment offered by Mr. [Brent] Spence [of Kentucky]: On page 48, line 20, of the Spence amendment, add the following new section:
>
> Sec. —. (a) There is hereby established a Joint Economic Security Committee. . . .
>
> (b) The joint committee is authorized and directed to make a continuing study and investigation of, and advise and consult with the President with respect to, the administration of this act. . . .

11. H.R. 9176 (Committee on Banking and Currency).

12. 96 CONG. REC. 11740, 81st Cong. 2d Sess., Aug. 3, 1950.

A point of order was raised against the amendment, as follows: (13)

MR. [WRIGHT] PATMAN [of Texas]: . . . This is an attempt to set up in this bill a joint committee. I do not believe the amendment is germane or that it is in order.

The Chairman,(14) in ruling on the point of order, stated:

The amendment offered by the gentlewoman from New York undertakes to set up a joint committee of the two Houses of Congress, which is a subject that is not within the jurisdiction of the Committee on Banking and Currency.

The Chair holds that the amendment is not germane, and, therefore, sustains the point of order.

Bill To Amend Defense Production Act—Amendment To Amend Internal Revenue Code

§ 4.31 To a bill to amend the Defense Production Act of 1950, a committee amendment which would amend the Internal Revenue Code was held to be not germane. The rule of germaneness applies to committee amendments.

In the 82d Congress, a bill (15) was under consideration amending the Defense Production Act of 1950. The following committee amendment was read by the Clerk: (16)

Committee amendment: Page 12, line 7, insert:

(e) Title III of the Defense Production Act of 1950 is amended by adding at the end thereof the following new section:

Sec. 305. (a) No construction or expansion of plants, factories, or other facilities shall be (1) undertaken, or assisted by means of loans . . . by the United States under this or any other act, or (2) certified under section 124A of the Internal Revenue Code (relating to amortization for tax purposes) . . . unless the President shall have determined that the proposed location of such construction . . . is consistent . . . with a sound policy of (1) utilizing fully the . . . resources of the Nation. . . .

A point of order was raised against the amendment, as follows:

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the subject matter of the bill. It has to do with an amendment to the Internal Revenue Code, in respect to the acceleration of appreciation for tax purposes.

In support of the point of order, Mr. Foster Furcolo, of Massachusetts, stated:

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13. *Id.* at p. 11741.

14. Howard W. Smith (Va.).

15. H.R. 3871 (Committee on Banking and Currency).

16. 97 CONG. REC. 7978, 82d Cong. 1st Sess., July 11, 1951.

. . . There is nothing in the Defense Production Act of 1950 relating to amortization for tax purposes.

The following exchange[17] related to the point of order:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, of course a committee amendment occupies no different status than an amendment offered by a Member from the floor. This amendment undertakes to add to this bill a provision which has no relation at all to the Defense Production Act of 1950. It relates to amortization for taxation purposes, the so-called 5-year amortization program. . . .

MR. [KENNETH B.] KEATING [of New York]: Supplementing what the gentleman has said with regard to the certification under this section of the Internal Revenue Code any legislation in that respect, of course, would have to come from the Committee on Ways and Means. . . .

The very fact that in this amendment are included matters which are properly under the cognizance of other committees of the House, in my judgment, makes it not germane to this bill.

MR. [ALBERT M.] RAINS [of Alabama]: Mr. Chairman, this amendment in this particular act has reference to defense plants or to plants engaged in the defense effort. It is true that in this particular amendment reference is made to the Internal Revenue Act and to tax amortization certificates. . . .

The Chairman,[18] in ruling on the point of order, stated:

To [the committee] amendment the gentleman from Michigan [Mr. Wolcott], the gentleman from Massachusetts [Mr. Furcolo], and several others raise a point of order and have advised the Chair as to why the point of order should be sustained.

The Chair . . . desires to read one paragraph from Cannon's Procedure in the House of Representatives:

> . . . It is not in order during consideration of the bill to introduce a new subject and the rule applies to amendments offered by the Committee as well as to amendments offered from the floor.

The amendment offered by the committee goes beyond the purview of the bill, House bill 3871, and beyond the jurisdiction of the Committee on Banking and Currency in attempting to amend other statutes in connection with this bill.

The amendment refers not only to the bill under consideration but to other acts. It also refers to section 124(a) of the Internal Revenue Code, invading the jurisdiction of another standing committee of the House.

The Chair is therefore constrained to sustain the point of order.

Bill Authorizing Military Expenditures—Amendment Prohibiting Use of Funds Except in Accordance With Congressional Policy Declaration

§ 4.32 To a bill authorizing military expenditures, an amendment providing that "none of the funds authorized herein" be used except

17. *Id.* at pp. 7978, 7979.

18. Wilbur D. Mills (Ark.).

in accordance with certain congressional declarations as to our foreign policy with respect to Southeast Asia was held to be not germane.

In the 90th Congress, during consideration of supplemental military authorizations for fiscal 1967,[19] the following amendment was offered:[20]

> Amendment offered by Mr. [Henry S.] Reuss [of Wisconsin]: On page 4, line 10, after "$624,500,000", insert:
>
> **Title IV—Statement of Congressional Policy**
>
> Sec. 401. None of the funds authorized by this Act shall be used except in accordance with the following declaration by Congress. . . .
>
> . . . (2) its support of efforts being made by the President of the United States and other men of good will throughout the world to prevent an expansion of the war in Vietnam. . . .
>
> . . . (3) its support of the Geneva accords of 1954 and 1962. . . .

A point of order was raised against the amendment, as follows:

> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I rise to a point of order on the ground that the amendment is not germane to the bill. The bill before the House is a supplemental authorization bill. The amendment contains no limitation. It declares a matter of policy which obviously is under the jurisdiction of another committee. . . .

In defending the amendment, the proponent, Mr. Reuss, stated:[1]

> By stating the circumstances under which the authorization may be pursued, [the amendment] is well within the precedents of this body, and the mere fact that a portion of the language relates to the foreign policy specialty of the House Committee on Foreign Affairs is entirely irrelevant.

The Chairman, Daniel D. Rostenkowski, of Illinois, in ruling on the point of order, stated:[2]

> The Chair is of the opinion that the subject matter of the amendment comes within the jurisdiction of the Committee on Foreign Affairs, and not the Committee on Armed Services which reported the bill now before the Committee. . . .
>
> The Chair, applying one of the accepted tests for germaneness, is of the opinion that the amendment is essentially on a "subject other than that under consideration" and is not germane to the bill under consideration.[3]

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19. H.R. 4515 (Committee on Armed Services).

20. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967.

1. *Id.* at p. 5140.

2. *Id.* at p. 5141.

3. Substantially the same amendment was later ruled out of order when sought to be offered by Mr. Reuss as part of a motion to recommit the bill with instructions. See § 23.3, infra.

For another amendment in the form of a statement of congressional policy, held to be germane because

A similar ruling was subsequently made with respect to an amendment offered by Mr. Sidney R. Yates, of Illinois.(4)

Bill Authorizing President To Arm Vessels—Amendment Relating to Insurance for Men Serving on Vessels

§ 4.33 To a bill authorizing the President to arm American vessels, an amendment relating to insurance for men of the armed forces who might serve on such vessels was held to be not germane.

In the 77th Congress, a joint resolution(5) was under consideration which stated in part:(6)

> *Resolved, etc.*, That section 6 of the Neutrality Act of 1939 (relating to the arming of American vessels) is hereby repealed; and, during the unlimited national emergency proclaimed by the President on May 27, 1941, the President is authorized, through such agency as he may designate, to arm, or to permit or cause to be armed, any American vessel as defined in such act. The provisions of section 16 of the Criminal Code (relating to bonds from armed vessels on clearing), shall not apply to any such vessel.

The following amendment was offered:

> Amendment offered by Mr. [Edouard V. M.] Izac [of California]: In line 11, after period, add the following: "For life insurance protection to the families of armed guard detachment detailed as guns' crews on American vessels so armed, all personnel on active duty in the Navy, Marine Corps, and Coast Guard on the date of enactment of this joint resolution, shall be granted insurance under sections 602 (a), (b), (c), and (d) of the National Service Life Insurance Act of 1940, without further medical examination if application therefor is filed within 120 days after the date of enactment of this joint resolution."

Mr. Sol Bloom, of New York, having made the point of order that the amendment was not germane, the Chairman, Clifton A. Woodrum, of Virginia, ruled as follows:(7)

> [The amendment] relates to a provision for insurance for men who arm these vessels, a provision fairly within the jurisdiction of committees other than the Foreign Affairs Committee. Unquestionably the amendment is not germane to this resolution and the Chair, therefore, sustains the point of order.

placing certain restrictions on the use of funds authorized in the bill, see § 32.1, infra.

4. 113 CONG. REC. 5141, 90th Cong. 1st Sess., Mar. 2, 1967.

5. H.J. Res. 237 (Committee on Foreign Affairs).

6. See 87 CONG. REC. 8026, 77th Cong. 1st Sess., Oct. 17, 1941.

7. *Id.* at p. 8027.

Bill Authorizing Construction of Ships for Navy—Amendment Requiring Information to Taxpayers as to Proportion of Tax Spent on Military

§ 4.34 To that section of a bill authorizing an appropriation for the construction of ships for the Navy, an amendment requiring the Secretary of the Treasury annually to inform each federal taxpayer what proportion of his tax payment is spent in military and naval expenditures was held not germane.

In the 75th Congress, a naval authorization bill[8] was under consideration which stated in part:[9]

> Sec. 5. There is hereby authorized to be appropriated out of any money in the Treasury of the United States not otherwise appropriated, such sums as may be necessary to effectuate the purposes of this act.

A committee amendment was read as follows:

> Page 3, line 20, after the word "act", insert the following: "which purposes shall include essential equipment and facilities at navy yards for building any ship or ships herein or heretofore authorized."

The following amendment was offered to the bill:[10]

> Amendment by Mr. [Herman P.] Kopplemann [of Connecticut]: Page 3, line 22, at the end of section 5, strike out the period, insert a comma and the following: "and each Federal income-tax payer shall be informed annually by the Treasury of the United States of the proportion of every dollar of his tax which is spent on all military and naval expenditures including disbursements of every nature resulting from past wars, military and naval engagements."

The Chairman,[11] ruling on a point of order raised by Mr. Carl Vinson, of Georgia, stated:

> The gentleman's amendment introduces an entirely new subject and refers more to taxes or revenues, over which another committee of the House has jurisdiction, so that the matter would not be within the jurisdiction of the Naval Affairs Committee at all. The amendment offered by the gentleman is not germane to the section, and the Chair sustains the point of order.

Provisions Establishing Study of Use of Merchant Marine for Defense Purposes—Amendment Waiving Coastwise Trade Laws for Commercial Vessels

§ 4.35 To a title of a bill containing diverse provisions re-

8. H.R. 9218 (Committee on Naval Affairs).

9. 83 CONG. REC. 3672, 75th Cong. 3d Sess., Mar. 18, 1938.

10. *Id.* at p. 3674.

11. John J. O'Connor (N.Y.).

lating to the authority of the Secretary of Defense, amended to establish a study of the use of the merchant marine for defense purposes, an amendment waiving the coastwise trade laws (a matter within the jurisdiction of the Committee on Merchant Marine and Fisheries) for not more than two undesignated commercial passenger vessels was held germane, where the amendment was not in the form of a private bill and was related to national security issues.

The proceedings of May 30, 1984, relating to H.R. 5167, the Defense Department authorization for fiscal 1985, are discussed in § 3.45, supra.

Bill Authorizing Appropriations for Armed Forces—Amendment Imposing Permanent Restrictions on Withdrawals of Troops From Korea

§ 4.36 Where a bill reported from the Committee on Armed Services authorized appropriations and personnel strengths for the armed forces for one fiscal year and contained minor conforming changes to existing law, a section of an amendment in the nature of a substitute imposing permanent restrictions on troop withdrawals from the Republic of Korea, in part making reduction of troop strength contingent upon conclusion of a peace agreement on the Korean peninsula, was held to be not germane (pursuant to a special order allowing such a point of order) since proposing permanent law to a one-year authorization and containing statements of policy contingent on the enactment and administration of laws within the jurisdiction of the Committee on International Relations.

On May 24, 1978,[12] the Committee of the Whole had under consideration a bill (H.R. 10929) reported from the Committee on Armed Services authorizing appropriations and personnel strength for the armed forces for one fiscal year and containing minor conforming changes to existing law. An amendment in the nature of a substitute was, pursuant to a special rule, to be read as original text for amendment. A section of the amendment imposed permanent restrictions on troop withdrawals from the Republic of

12. 124 CONG. REC. 15293–95, 95th Cong. 2d Sess.

Korea, in part making reductions in troop strength contingent upon the conclusion of a peace agreement with North Korea. The terms of the special rule permitted a point of order based on the germaneness rule to be made against that section of the amendment. The special rule (H. Res. 1188) stated: [13]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles . . . and other weapons . . . and to prescribe the authorized personnel strength for each active duty component . . . of the Armed Forces and of civilian personnel of the Department of Defense . . . and for other purposes. After general debate . . . the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purposes of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and clause 7, rule XVI, are hereby waived, except that it shall be in order when consideration of said substitute begins to make a point of order that section 805 of said substitute would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 10929 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without section 805 included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. . . .

The proceedings of May 24, 1978, were as follows:

THE CHAIRMAN: [14] When the Committee rose on Tuesday, May 23, 1978, all time for general debate on the bill had expired. Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Department of Defense Appropriation Authorization Act, 1979''.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, in accordance with the rule, House Resolution 1188, I make a point of order that section 805 of the committee amendment in the nature of a substitute, if offered as

13. See 124 CONG. REC. 15094, 15095, 95th Cong. 2d Sess., May 23, 1978.

14. Dan Rostenkowski (Ill.).

a separate amendment to H.R. 10929 as introduced, would be in violation of clause 7 of House Rule XVI regarding germaneness. This provision which deals with the withdrawal of troops from Korea, and section 805 which deals with the withdrawal of troops from Korea, is not germane to the Department of Defense authorization bill.

Mr. Chairman, a key criterion in determining germaneness is a committee's jurisdiction over a matter. The Korean troop withdrawal issue falls clearly within the jurisdiction of the Committee on International Relations. Both sections 805(a) and 805(b) fall clearly within the jurisdiction of the Committee on International Relations, pursuant to clause 1, subparagraph (k) of House Rule X.

Compelling evidence of the primary jurisdiction of the International Relations Committee over the issue of troop withdrawal from Korea is found in the fact that all legislation, the President's arms transfer request, and related reports have been referred solely to the International Relations Committee.

Thus, there can be no doubt that the issue of the Korean troop withdrawal lies within the jurisdiction of the Committee on International Relations, and accordingly section 805 is not germane to this bill.

In addition, the issue of U.S. troop withdrawal from Korea is not relevant to either the subject matter or to the purpose of H.R. 10929, as introduced. As introduced, H.R. 10929 consists entirely of provisions relating to the annual authorizations for the Department of Defense. It contains no general policy provisions for the Department of Defense. It contains no general policy provisions of any type, let alone any policy provisions relevant to the withdrawal of U.S. troops from Korea. It is well established that an amendment of a general and permanent nature is not germane to a bill containing only temporary authorizations.

Thus, by what ever test of germaneness one examines, section 805 is not germane to H.R. 10929. . . .

MR. [SAMUEL S.] STRATTON [of New York]: . . . Mr. Chairman, the gentleman from Wisconsin (Mr. Zablocki), makes the point of order that section 805 is not germane on the ground that it deals with a matter that is related to something that has been before his committee. As he indicated before the Committee on Rules, if this had been introduced as an original bill, it would have been referred sequentially to the Committee on International Relations as well as to the Committee on Armed Services.

I submit, Mr. Chairman, that, first of all, the question of germaneness does not depend on what committee it might be referred to sequentially. In fact, the whole idea of sequential referral is a relatively new concept. I believe, in fact, that it has only been practiced in this House during this present Congress, and perhaps a few times previously.

H.R. 10929, is the annual authorization bill for the Department of Defense. It traditionally covers a wide variety of topics relating to defense. I would point out that the title of the bill after it lists the various items that the gentleman from Wisconsin has already referred to concludes, "and for other purposes."

Traditionally, matters related to the defense of our country which the Com-

mittee on Armed Services has regarded as being of importance have been included in this annual legislation year after year. Section 805 is no different from any of the other matters we have traditionally handled under "general provisions."

It is true that the gentleman's committee has had legislation before it regarding the transfer of American equipment to Korean forces; but section 805 refers to the stationing and positioning of U.S. ground forces; "no ground combat units of the 2d Infantry Division," and so on and so forth. It makes no reference to any transfer of equipment to Korean forces. We are providing here for the stationing of troops in an area that is of great importance to our national security. If that is not something which is within the concern of the Committee on Armed Services, then I do not know what our proper area of responsibility is.

Subsection (b) of section 805 spells out the recommendations of the committee as to what the minimum ground combat strength of our Armed Forces stationed in the Republic of Korea should be based on information we gleaned in an on-the-spot visit to Korea in January; so it is clearly within the province of the Committee on Armed Services. The gentleman from Wisconsin does not dispute that. The gentleman could not dispute it; but to suggest that because if it were introduced as a bill under today's procedures it might have been referred sequentially to the gentleman's committee or to some other committee, completely misses the point. If the size and location of Armed Forces of the United States are not a responsibility of the Committee on Armed Services, and are instead the responsibility of the Committee on International Relations, then something is very drastically wrong in this House.

Further, Mr. Chairman, the authority to determine where American Forces shall be stationed is clearly within the province of the Congress. The Constitution provides that Congress shall not only "raise and support armies," but that we shall provide for the "regulation and governing of the land and naval forces," in section 8 of article I.

Congress has previously enacted the war powers bill, which limits the authority of the President as far as the stationing of troops abroad is concerned. The Constitution does not give a broad grant of power to the Commander in Chief alone in stationing troops abroad. He has no constitutional power to put troops wherever he wants to, because Congress has determined that he cannot put troops abroad under certain conditions without the expressed approval of the Congress of the United States.

Well, if we can limit the President's ability to send troops overseas, it follows that we can also limit his ability to bring those troops back home, if in the opinion of the Congress, we determine that that withdrawal action, which certainly is the case of Korea, would increase the risks of war.

So, Mr. Chairman, I urge that the point of order be overruled. Section 805 is clearly within the authority of the committee. It is clearly germane to the broad purposes of the bill and the House should have the right to vote on this important question.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Wisconsin makes a point of order against section 805 of the committee amendment in the nature of a substitute recommended by the Committee on Armed Services, on the grounds that section 805 of said amendment would not have been germane if offered to the bill H.R. 10929, as introduced.

As indicated by the gentleman from Wisconsin, the special order providing for consideration of this measure, House Resolution 1188, allows the Chair to entertain a point of order on the basis stated by the gentleman, that section 805 of the committee amendment would not have been germane as a separate amendment to H.R. 10929 in its introduced form.

The bill as introduced and referred to the Committee on Armed Services contains authorizations of appropriations and personnel strengths of the Armed Services for fiscal year 1979. It contains no permanent changes in law or statements of policy except for minor conforming changes to existing law relating to troop and personnel strengths.

Section 805 of the committee amendment in the nature of a substitute prohibits: First the withdrawal of ground combat units from the Republic of Korea until the enactment of legislation allowing the retention in Korea of the equipment of such units, and second, the reduction of combat units below a certain level in the Republic of Korea until a peace settlement is reached between said Republic and the Democratic People's Republic of Korea ending the state of war on the Korean peninsula.

The subject matter of section 805 of the committee amendment is unrelated to H.R. 10929 as introduced. The strength levels prescribed in the bill are for 1 fiscal year only and deal with the overall strength of the Armed Forces, not with the location of Armed Forces personnel. As indicated in the argument of the gentleman from Wisconsin, the withdrawal of American Forces stationed abroad pursuant to an international agreement, and the relationship of that withdrawal to peace agreements between foreign nations and to the transfer of American military equipment to foreign powers, are issues not only beyond the scope of the bill but also within the jurisdiction of the Committee on International Relations. Although committee jurisdiction over an amendment is not the sole test of germaneness, the Chair feels that it is a convincing argument in a case such as the present one where the test of germaneness is between a limited 1-year authorization bill and a permanent statement of policy contingent upon the administration of laws within the jurisdiction of another committee.

For the reasons stated, the Chair sustains the point of order.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Chairman, the Chair may have just stated a novel concept which has never before been heard in a ruling. That is that the sequential referral rule somehow serves as the basis for jurisdiction, and thus can support a point of order dealing with a section in a bill such as the one before us.

The parliamentary inquiry I have is this: Simply because under the new

procedure adopted for the first time in this Congress the rules allow sequential referral at the discretion of the Speaker, does that mean that a committee that has primary jurisdiction, such as the Committee on Armed Services, may be challenged on the floor and have a point of order sustained removing a provision that might be partially under the jurisdiction of another committee on a sequential referral?

THE CHAIRMAN: The ruling of the Chair does not stand for that proposition.

MR. BAUMAN: Mr. Chairman, the gentleman from Maryland understood the Chair to say that the argument of the gentleman from Wisconsin was persuasive to the Chair regarding jurisdiction. If that is the case, it seems to me every committee of this House is somehow going to be challenged on the floor henceforth if its jurisdiction is shared to the slightest degree by another committee.

THE CHAIRMAN: All the Chair has stated is that section 805 is not germane to the introduced bill, and the rule provides that the point of order would lie on that ground.

MR. BAUMAN: Mr. Chairman, I have this further parliamentary inquiry:

Then the ruling of the Chair is based on germaneness of this amendment to this bill and does not go to any effect the sequential jurisdiction would have on the provision?

THE CHAIRMAN: The gentleman is correct.

The point of order having been sustained against the nongermane portion of the committee amendment in the nature of a substitute, the Chair directed the Clerk to read the substitute without the nongermane portion as original text for amendment, pursuant to the special rule.

Bill Increasing Armed Forces—Amendment Creating Committee To Study Military Policy

§ 4.37 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment proposing the creation of a joint congressional committee to make a study of the military policy of the United States, was held to be not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[15] the following amendment was offered:[16]

> Amendment offered by Mr. [Jacob K.] Javits [of New York]: Page 48, line 24, insert the following new section and renumber the succeeding sections accordingly:
>
> Sec. 21. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Military Policy. . . .

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15. H.R. 6401 (Committee on Armed Services).

16. 94 CONG. REC. 8710, 80th Cong. 2d Sess., June 17, 1948.

(b) It shall be the function of the committee to make a continuous study of the military policy of the United States with respect to (1) its capability to enable the United States to discharge its international responsibilities; (2) the dominance of civilian control in the military policy; (3) the training and orientation in citizenship of the personnel of the armed forces; and (4) the participation of personnel of the armed forces in the foreign and domestic affairs of the United States. . . .

A point of order was raised against the amendment, as follows:

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that the amendment is not germane and not in order on this bill.

In defense of the amendment, the proponent stated:

MR. JAVITS: . . . It is germane . . . because it seeks to provide for the coordination of the military and the foreign policy of the United States, and for the training of selectees not alone in military matters, but in citizenship and the purposes for which they are being called upon to serve.

The Chairman,[17] in ruling on the point of order, stated:

The Chair is prepared to rule. The Chair has examined the amendment proposed by the gentleman from New York. The subject matter of the gentleman's amendment proposing the creation of a special congressional committee comes under the jurisdiction of the Committee on Rules which, of course, makes the amendment not germane and not in order.

Bill Increasing Armed Forces—Amendment to Internal Revenue Code

§ 4.38 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment seeking to amend the Internal Revenue Code is not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[18] the following amendment was offered:[19]

Amendment offered by Mr. [Herman P.] Eberharter [of Pennsylvania]: Amend H.R. 6401, on page 43, line 1, by inserting after the period the following: "Section 22 (b) (relating to exclusions from gross income) of the Internal Revenue Code is hereby amended by striking out 'January 1, 1949' wherever occurring therein, and inserting in lieu thereof 'January 1, 1951'. . . ."

A point of order was raised against the amendment, as follows:

MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, it is with great

17. Francis H. Case (S.D.).

18. H.R. 6401 (Committee on Armed Services).

19. 94 CONG. REC. 8701, 80th Cong. 2d Sess., June 17, 1948.

reluctance that I make a point of order against the amendment. It has to do with the revenue laws and should be considered by the Ways and Means Committee. The amendment may be very meritorious but it is clearly out of order on this legislation.

In defense of the amendment, the proponent stated as follows:

MR. EBERHARTER: Mr. Chairman, I would like to be heard for a minute or two on the point of order.

Section 14 of the bill provides for the pay and allowances of the members who will be inducted under this bill. My amendment has reference to their pay and allowances and merely seeks to maintain the same rate of pay as is now in existence for the men in the armed services whose rate of pay will be changed in January next.

The Chairman,[20] in ruling on the point of order, stated:

The Chair has examined the text of the amendment offered by the gentleman from Pennsylvania [Mr. Eberharter]. Clearly the amendment proposes to legislate on the Internal Revenue Code which is legislation that would be within the jurisdiction of the Committee on Ways and Means. Therefore the Chair is constrained to sustain the point of order.

Provision To Subject Retired Military Officers Who Sell Products to Defense Department to Court Martial—Amendment Making Conduct Federal Penal Offense

§ 4.39 To an amendment in the nature of a substitute, providing in part that retired military officers who engage in selling products to the Department of Defense within two years after their retirement should be subject to court martial, a substitute amendment making such conduct a penal offense under a federal statute was held to be not germane.

On Apr. 7, 1960, a bill was under consideration relating to the employment of retired officers by defense contractors.[1] The following amendment was offered:[2]

. . . It shall be unlawful for a commissioned officer . . . within two years after release from active duty . . . to engage in any transaction, the purpose of which is to sell or to aid or assist in the selling of anything to the Department of Defense . . . and such officer shall not be entitled to receive any retired pay . . . for a two-year period from the date he engages in any such transaction. . . .

. . . Any retired commissioned officer subject to the Uniform Code of Military Justice who violates any provision of this Act shall be tried by a court-martial and shall, upon conviction be punished as a court-martial shall direct.

20. Francis H. Case (S.D.).

1. 106 CONG. REC. 7679–82, 86th Cong. 2d Sess. Under consideration was H.R. 10959 (Committee on Armed Services).

2. 106 CONG. REC. 7680, 86th Cong. 2d Sess., Apr. 7, 1960.

A substitute amendment, subsequently offered, stated: (3)

> That chapter 15 of title 18, United States Code is amended by adding at the end thereof the following new section: . . .
>
> Whoever violates any provision of this section shall be fined not more than $10,000.00 or imprisoned for not more than one year, or both.

The following point of order was made against the substitute amendment: (4)

> MR. [PAUL J.] KILDAY [of Texas]: Mr. Chairman, I make the point of order that (the substitute amendment) is not germane to the amendment or the pending bill; that [it] attempts to create a new penal offense, whereas the amendment and the pending bill do not create any criminal offenses. I make the additional point of order that the committee reporting the bill does not have jurisdiction to consider the matter contained in this substitute.

The proponent of the substitute amendment, Mr. F. Edward Hébert, of Louisiana, defended the amendment as follows: (5)

> [The amendment] is relevant to the subject matter. It proposes to deal with the subject matter, which is the relationship between retired officers and defense contractors. . . .

The Chairman (6) ruled that the substitute amendment was not germane, stating the reasons for such ruling as follows: (7)

> [The] Kilday amendment deals with retired officers of the Armed Forces, whereas the Hébert substitute goes much further and deals with criminal penalties; deals with the Criminal Code and which, if offered as a separate bill would have to be referred to the Committee on the Judiciary. It is clearly outside the jurisdiction of the Committee on Armed Services.
>
> For those reasons, the Chair sustains the point of order.

—*Amendment To Prohibit Contractors From Hiring Retired Officers*

§ 4.40 To an amendment in the nature of a substitute prohibiting retired military officers from engaging in selling any product to the Department of Defense within two years after their retirement, and making violations of this restriction punishable by court martial, an amendment making it unlawful for contractors to hire retired officers within the two-year period and providing a fine for violations of this provision was held to be not germane.

During consideration of a proposition, discussed above,(8) making

3. *Id.* at p. 7681.

4. *Id.*

5. *Id.*

6. Aime J. Forand (R.I.).

7. 106 CONG. REC. 7682, 86th Cong. 2d Sess., Apr. 7, 1960.

8. See § 4.39, supra.

retired military officers subject to court martial, in certain circumstances, for participating in the sale of products to the Department of Defense,[9] the following amendment was offered to such proposition:[10]

> . . . It shall be unlawful for any person to employ such a retired commissioned officer . . . for the purpose of . . . assisting in the selling of anything of value to the Department of Defense. . . .
>
> Whoever violates any provision of this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

The Chairman,[11] in ruling that the proposed amendment was not germane, referred to a previous ruling[12] and stated:[13]

> The same basis for the ruling that was made previously would apply here, in view of the fact that criminal penalties are involved.

Bill Amending Universal Military Training and Service Act—Amendment Providing for Right of Those Covered To Vote Regardless of Age

§ 4.41 To a bill amending the Universal Military Training and Service Act, an amendment providing that all persons included within the scope of the bill be entitled to vote regardless of age, was held to be not germane.

In the 82d Congress, a bill[14] was under consideration which amended the Universal Military Training and Service Act. The following amendment was offered to the bill:[15]

> Amendment offered by Mr. Edwin Arthur Hall [of New York] to the amendment offered by Mr. [Graham A.] Barden [of North Carolina]: On page 19, line 25, insert a new section to read as follows:
>
> Sec. 2. All persons included within the scope of this act shall be entitled to vote regardless of age.

A point of order was raised against the amendment, as follows:

> MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order that the amendment is not germane.

9. 106 CONG. REC. 7680, 86th Cong. 2d Sess., Apr. 7, 1960. Under consideration was H.R. 10959 (Committee on Armed Services).

10. 106 CONG. REC. 7682, 86th Cong. 2d Sess., Apr. 7, 1960.

11. Aime J. Forand (R.I.).

12. See § 4.39, supra.

13. 106 CONG. REC. 7682, 86th Cong. 2d Sess., Apr. 7, 1960.

14. S. 1–1951 (Committee on Armed Services).

15. 97 CONG. REC. 3780, 82d Cong. 1st Sess., Apr. 12, 1951.

The Chair[16] sustained the point of order and said:

> . . . The Chair invites attention to the fact that the amendment . . . deals with a subject matter which is not dealt with in the pending bill nor by the act which the pending bill seeks to amend. The amendment . . . embraces a subject matter coming under the jurisdiction of another standing committee of the House and would seek to affect legislation which has been enacted, having been reported by another standing committee of the House and which does not come under the jurisdiction of the Committee on Armed Services which has reported the pending bill.
>
> Therefore, the Chair sustains the point of order.

The following exchange then occurred, concerning a unanimous-consent request that the amendment be voted upon:

> MR. [WILLIAM S.] COLE of New York: Mr. Chairman, in connection with the amendment which the Chair has just ruled out of order, in the discussion with reference to it, a possible inference has been created involving the integrity of every Member of the House. I ask unanimous consent that the committee may pass upon the amendment irrespective of the fact that it is not germane. . . .
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from New York?
>
> There was no objection.

16. Jere Cooper (Tenn.).

Bill To Provide Allowances for Military Dependents—Amendment To Amend National Service Life Insurance Act To Grant Further Benefits

§ 4.42 To a bill to provide family allowances for dependents of enlisted men of the Army, Navy and Coast Guard, an amendment proposing to amend the National Service Life Insurance Act to grant further benefits to such enlisted men, was held to be not germane.

In the 77th Congress, a bill[17] was under consideration to provide family allowances for dependents of enlisted men of the armed forces. An amendment was offered[18] as described above. Mr. Robert E. Thomason, of Texas, made the point of order that the amendment was not germane. The bill under consideration had been reported by the Committee on Military Affairs. The Chairman,[19] in sustaining the point of order, noted that, "The amendment . . . deals with national service life insurance, which is a

17. H.R. 7119 (Committee on Military Affairs).

18. 88 CONG. REC. 5029, 77th Cong. 2d Sess., June 8, 1942.

19. Alfred L. Bulwinkle (N.C.).

creature of the Ways and Means Committee. . . .”

Bill Increasing Veterans' Home Loan Guarantees—Amendment Requiring Federal Reserve Banks To Purchase Loans at Par

§ 4.43 To a bill to increase the amount that the Veterans' Administration might guarantee on a home loan, an amendment requiring the Federal Reserve banks to purchase all such loans at par from the Administrator was held to be not germane.

In the 90th Congress, during consideration of a bill[20] relating to veterans' housing loans, the following amendment was offered:[1]

> Amendment offered by Mr. [Wright] Patman [of Texas]: On page 2, immediately after line 5, insert: . . .
>
> (4) The Federal Reserve bank within whose district the property securing any loan made under this section is located shall, at the request of the Administrator, purchase such loan at par from the Administrator.

Mr. Edwin R. Adair, of Indiana, made a point of order against the amendment on the ground that it was not germane.

The Chairman, Charles E. Bennett, of Florida, in ruling on the point of order, stated:[2]

> There is no reference in this bill to the Federal Reserve Board. The Committee on Veterans' Affairs has no jurisdiction over the Federal Reserve Board. Therefore the Chair rules that the amendment is not germane to this bill and sustains the point of order.

Bill Providing Federal Aid to Returning Veterans—Amendment To Amend Servicemen's Dependents Allowance Act

§ 4.44 To a bill providing federal aid to returning war veterans to facilitate readjustment to civilian life, an amendment seeking to amend the Servicemen's Dependents Allowance Act was held not germane.

In the 78th Congress, during consideration of a bill[3] providing aid to veterans as described above, an amendment was offered[3] which sought to amend the Servicemen's Dependents Allowance Act.

In ruling on a point of order raised by Mr. John E. Rankin, of Mississippi, against the amend-

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20. H.R. 10477 (Committee on Veterans' Affairs).

1. 114 CONG. REC. 7628, 90th Cong. 2d Sess., Mar. 26, 1968.

2. *Id.* at p. 7629.

3. S. 1767 (World War Veterans' Legislation).

4. 90 CONG. REC. 4535, 78th Cong. 2d Sess., May 16, 1944.

ment, the Chairman, Mr. Fritz G. Lanham, of Texas, stated:[5]

> In the opinion of the present occupant of the chair, there is one very definite criterion with reference to determining whether or not an amendment is germane to a pending measure. It inheres in the jurisdiction of the committees of the House of Representatives. Its purpose is to prevent the House or the Committee of the Whole House on the state of the Union from being taken by surprise by amendments which could not have been anticipated by the committee reporting the bill within the borders of its jurisdiction.
>
> The measure to which the particular amendment offered by the gentleman from Missouri relates emanated from the Committee on Military Affairs and deals with allowances and allotments. That could not well have been anticipated by the Committee on World War Veterans' Legislation in its consideration of the pending measure. . . . The Chair sustains the point of order.

Bill Increasing Maximum for Veterans' Housing Loans—Amendment Excluding Certain Interest From Gross Income

§ 4.45 To a bill to encourage new residential construction for veterans' housing by increasing the authorized maximum for direct loans, an amendment to exclude interest on certain guaranteed loans from gross income was held to be not germane.

In the 85th Congress, during consideration of a bill[6] to encourage new residential construction for veterans' housing, the following amendment was offered:[7]

> Amendment offered by Mr. [Abraham J.] Multer [of New York]: On page 9 after line 20 insert a new section as follows:
>
> Interest on veterans' loans: Interest upon any loan which bears interest at a rate not exceeding 3½ percent per annum, and any part of which is guaranteed under title 3 of the Servicemen's Readjustment Act of 1944, as amended, shall not be considered gross income for purposes of taxation.

A point of order was raised against the amendment, as follows:

> Mr. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the pending bill. It seeks to amend the Internal Revenue Code, a subject matter not covered by the pending bill, a subject matter under the jurisdiction of another standing committee of the House, the Committee on Ways and Means.

The Chairman, Robert L. F. Sikes, of Florida, sustained the point of order.[8]

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5. *Id.* at p. 4536.

6. H.R. 4602 (Committee on Veterans' Affairs).

7. 103 CONG. REC. 4311, 85th Cong. 1st Sess., Mar. 25, 1957.

8. *Id.* at pp. 4311, 4312.

Bill Authorizing Activities of Coast Guard—Amendment Urging Consultation Between Secretary of State and Coast Guard Respecting Joint International Effort

§ 4.46 To a bill reported from the Committee on Merchant Marine and Fisheries authorizing various activities of the Coast Guard, an amendment urging the Secretary of State in consultation with the Coast Guard to elicit cooperation from other nations in an area where there were Coast Guard and other military operations, a matter within the jurisdiction of the Committee on Foreign Affairs, was held not germane.

During consideration of H.R. 2342 (Coast Guard authorization for fiscal 1988) in the Committee of the Whole on July 8, 1987,[9] the Chair sustained a point of order against the following amendment:

Amendment offered by Ms. Snowe: Page 22, after line 11, add the following new section:

INTERNATIONAL COOPERATION

Sec. 26. (a) The Congress finds that—

(1) the President, at the June 1987 Venice economic summit and in other international forums, has requested and is continuing to request additional support of United States allies in the Persian Gulf . . .

(3) attacks on neutral shipping in the Persian Gulf threaten to limit the access of the United States and its allies to oil supplies from the region . . .

(7) there have been reports, which the Congress notes with approval, that some allied governments are giving serious consideration to possible actions in support of Western interests in the Gulf;

(8) a Western multilateral effort can best protect the interests of the United States and its friends and allies in the Persian Gulf;

(9) an international effort can best sustain a long-term diplomatic commitment in support of a negotiated settlement to the Iran-Iraq war;

(10) those United States allies whose military forces are constitutionally restricted to self-defense should share in the financial burden of protecting their interests in the Persian Gulf . . .

(b) The Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, shall urge our European allies and Japan to join the United States in intensifying efforts to bring about a speedy and just solution to the Iran-Iraq war and in defending our mutual interests in the Persian Gulf. . . .

MR. [EARL] HUTTO [of Florida]: . . . I make a point of order on this amendment. . . . I say this is not a foreign affairs bill. It is not made in order by the rule, it is not germane so I made a point of order. . . .

9. 133 CONG. REC. 19011–13, 100th Cong. 1st Sess.

Ms. [OLYMPIA J.] SNOWE [of Maine]: . . . I think the subsequent amendment that would be offered will expand the scope of this initiative. This amendment is similar and comparable to the attempts that will be made by similar amendments. So although the other amendments were not germane they were made in order by the Rules Committee. Therefore, given the fact that we are expanding ultimately the scope of this legislation, it seems to me only practical that we would include allied support in terms of the policy that might be developed by the House in the next few hours.

The Chairman:[10] If there are no further arguments on the point of order, the Chair is prepared to rule.

The primary purpose of the bill as amended is to authorize funds for the Coast Guard for fiscal year 1988 as well as to address other provisions within the purview of the Coast Guard and its operations. As the Chair reads the amendment of the gentlewoman from Maine, the operative purpose is to have the Secretary of State urge our European allies and Japan to join the United States in intensifying efforts to bring about a speedy and just solution to the Iran-Iraq war and defending our mutual interests in the Persian Gulf. Those are purposes outside the purview of this bill and the Chair would further state that the linkage to possible amendments which may hereinafter be adopted with reference to reflagging does not support the germaneness of this amendment. Those amendments are not yet adopted and do not prospectively justify an amendment of this sort. The Chair is constrained to sustain the point of order and rule the amendment of the gentlewoman from Maine out of order.

Bill Amending Mutual Security Act—Amendment To Provide Submarine Patrols in Caribbean

§ 4.47 To a bill authorizing appropriations for military assistance under the Mutual Security Act, an amendment authorizing and directing the transfer of ships and supplies for purposes of providing submarine patrols in certain Caribbean areas was held to be not germane.

In the 85th Congress, a bill[11] was under consideration to amend the Mutual Security Act of 1954. The following amendment was offered to the bill:[12]

Amendment offered by Mr. [Gardner R.] Withrow [of Wisconsin]: On page 2, line 7, add the following new section:

There is hereby authorized and directed the transfer of such ships, arms, and supplies as may be necessary to provide adequate and comprehensive submarine patrols in the Caribbean areas embraced by bilateral agree-

10. Robert W. Kastenmeier (Wis.).

11. H.R. 12181 (Committee on Foreign Affairs).

12. 104 CONG. REC. 8620, 85th Cong. 2d Sess., May 13, 1958.

ments between the United States and the Republics of Dominican Republic, Haiti, and Cuba in furtherance of military assistance agreements, but not limited to such agreements. . . .

The Chairman, Hale Boggs, of Louisiana, ruling on the point of order raised by Mr. Thomas E. Morgan, of Pennsylvania, that the amendment was not germane to the bill, stated:[13]

The amendment is obviously not germane. It comes within the exclusive purview of the Committee on Armed Services. Without elaboration the Chair will sustain the point of order.

Bill Amending Mutual Security Act—Amendment Establishing Joint Committee on Mutual Security

§ 4.48 To a bill amending the Mutual Security Act of 1954, an amendment to establish a joint committee on mutual security was held to be not germane.

In the 86th Congress, during consideration of a bill[14] to amend the Mutual Security Act, the following amendment was offered:[15]

Amendment offered by Mrs. [Marguerite S.] Church: On page 14, after line 23, insert the following:

. . . Sec. 701. (a) There is hereby established the Joint Committee on Mutual Security. . . .

(b) The committee shall conduct a full and complete investigation and study of the policies and purpose of, and operations under, the Mutual Security Act of 1954, as amended. . . .

Mr. Clement J. Zablocki, of Wisconsin, made a point of order on the grounds that the amendment "provides . . . for the creation of a Joint Committee on Mutual Security and such a proposal, under the rules of this House, should receive appropriate consideration by the Committee on Rules."[16] Mrs. Church having conceded the point of order, the Chairman[17] stated, "The point of order is sustained."

Bill To Control Subversive Activities—Amendment To Modify Immigration Laws

§ 4.49 To a bill comprising measures to control subversive activities, an amendment proposing modification of the immigration and naturalization laws was held not germane.

In the 80th Congress, during consideration of a bill[18] as described above, an amendment was

13. *Id.* at p. 8621.
14. H.R. 11510 (Committee on Foreign Affairs).
15. 106 CONG. REC. 8536, 8537, 86th Cong. 2d Sess., Apr. 21, 1960.
16. *Id.* at p. 8537.
17. Wilbur D. Mills (Ark.).
18. H.R. 5852 (Committee on Un-American Activities).

offered[19] which related to deportation proceedings and which proposed an amendment to the Immigration Act of 1917. Mr. Karl E. Mundt, of South Dakota, having raised a point of order against the amendment, the Chairman[20] ruled as follows:[1]

> [The bill] comes from the Committee on Un-American Activities. That committee has no jurisdiction over legislation having to do with immigration and naturalization laws. Therefore, the Chair holds that the amendment is not germane.

Bill Regarding Payment of Claims Against Enemy Governments and Nationals—Amendment Regarding Court Jurisdiction and Procedures in Respect of Such Claims

§ 4.50 To a bill relating to the payment of claims against enemy governments and their nationals and to the disposition of property from which such claims were to be satisfied, an amendment was held to be not germane which related to the jurisdiction of courts over such claims and to procedures for adjudication.

In the 80th Congress, a bill[2] was under consideration which provided:[3]

> *Be it enacted, etc.—*
>
> TITLE I
>
> Section 1. The Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended by adding at the end thereof the following new section:
>
> Sec. 39. No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this act, shall be returned to former owners thereof. . . .
>
> With the following committee amendment:
>
> On page 2, line 13, insert as follows:
>
> Sec. 2. No property or interest therein shall be applied to the payment of debts, under the provisions of section 34 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended during the period . . . ending 6 months after the date on which the report of the War Claims Commission . . . is received by the Congress.

The following amendment was offered to the bill:[4]

> Amendment offered by Mr. (Bertrand W.) Gearhart [of California] as a substitute for the committee

19. 94 CONG. REC. 6139, 6140, 80th Cong. 2d Sess., May 19, 1948.

20. James W. Wadsworth, Jr. (N.Y.).

1. 94 CONG. REC. 6140, 80th Cong. 2d Sess., May 19, 1948.

2. H.R. 4044 (Committee on Interstate and Foreign Commerce).

3. See 94 CONG. REC. 567, 80th Cong. 2d Sess., Jan. 26, 1948.

4. *Id.* at p. 568.

amendment in the bill: Insert a new section . . . as follows:

Sec. 2. (A) No property . . . shall be applied to the payment of debts, under the provisions of section 34 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411) as amended, nor shall any part or any portion of the proceeds from the sale . . . of property . . . of Germany or Japan or any national of either of such countries . . . be applied to the satisfaction . . . of any claims of American nationals . . . except pursuant to a judgment . . . obtained in the manner . . . as in this title provided.

(B) The United States district court for the district wherein the claimant is resident . . . shall have exclusive jurisdiction to . . . render judgment on claims of American nationals . . . in respect of damage . . . inflicted . . . by measures of enemy governments. . . .

A point of order was raised against the amendment, as follows: (5)

MR. [ROBERT] HALE [of Maine]: Mr. Chairman, the amendment is not germane to the subject matter of the bill. . . . Neither the title of the bill nor the language of title II purports to make any provision at all for the adjudication of claims.

The Chairman,(6) in ruling on the point of order, stated:

If the substance of the matter set forth in the amendment offered by the gentleman from California [Mr. Gearhart] were introduced as a separate bill in the House of Representatives, it would . . . be immediately referred by the proper authority to the Judiciary Committee for consideration. . . . The gentleman seeks to place the material of this bill under the jurisdiction of the Federal courts, which would be a matter not within the jurisdiction of the committee having charge of this bill.

Foreign Aid Bill Provisions Establishing Committee To Advise on Inflation Control—Amendment Affecting Postage on Packages Sent Abroad

§ 4.51 To that section of a foreign aid bill establishing a committee to advise, in part, on means of avoiding inflationary pressures, an amendment seeking to amend the postal laws with respect to postage on packages sent abroad was held to be not germane.

In the 80th Congress, a bill (7) was under consideration to promote world peace and the foreign policy of the United States by providing aid to certain foreign countries. The bill stated in part: (8)

Sec. 11. There shall be established and maintained, out of the funds au-

5. *Id.* at p. 569.

6. Thomas A. Jenkins (Ohio).

7. H.R. 4604 (Committee on Foreign Affairs).

8. See 93 CONG. REC. 11258, 80th Cong. 1st Sess., Dec. 10, 1947.

thorized under this act, a National Food Conservation Committee . . . for the purpose of advising on ways and means to conserve foods and foodstuffs, to avoid inflationary pressures on domestic food prices and food supplies, and generally to facilitate the purposes and objectives of this act.

An amendment was offered by Mr. George G. Sadowski, of Michigan, who stated in the course of ensuing discussion:

[The amendment] has to do with relief. It provides that a certain amount of this money that is being appropriated in this bill will be set aside to pay the postage on some of these relief packages that are going to Europe, being sent by private individuals. . . .

A point of order was raised against the amendment, as follows:

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, the amendment which has been added either as a new section or as an amendment to section 11, which has just been read, is not germane to this bill, in that it has to do with the postal rates and the Post Office Department.

The Chairman, Earl C. Michener, of Michigan, in ruling on the point of order, stated: (9)

[T]he gentleman's amendment is in effect an amendment to the postal laws of the United States and has had no committee consideration. The Committee on Foreign Affairs has no jurisdiction over the post office. Again, the section to which the amendment is offered deals with the establishment and maintenance of the funds authorized under the act, and so forth.

The Chair feels that the amendment is not germane to the particular section to which offered. . . .

Bill Relating to Humanitarian and Evacuation Assistance out of South Vietnam—Amendment Providing for Costs of Settlement of Evacuees in United States

§ 4.52 To a bill reported from the Committee on International Relations dealing with humanitarian and evacuation assistance out of South Vietnam, an amendment providing for payment of costs of immigration and settlement of evacuees in the United States was held to raise issues within the jurisdiction of the Judiciary Committee and was held to be not germane.

On Apr. 23, 1975,(10) during consideration of H.R. 6096 in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [GLENN M.] ANDERSON of California: Mr. Chairman, I offer an amendment.

9. *Id.* at p. 11259.

10. 121 CONG. REC. 11534, 94th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Anderson of California: On page 2, after line 2, insert the following new section:

"Sec. 3. The Federal Government shall provide funds for all necessary expenses incurred in the immigration and settlement of Vietnamese nationals in the United States of America, and all necessary costs incurred thereof, for a period of not less than five years under the provisions of Public Law 87–510, Sec. 2(b)(2)."

And renumber subsequents accordingly.

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, a point of order. . . .

Mr. Chairman, this amendment is not germane. It deals mostly with matters completely outside the scope of the bill.

The bill deals only with humanitarian aid and evacuation from South Vietnam. It does not deal with U.S. domestic programs or agencies or conditions. It is far more subject to a point of order than the previous amendment offered by the gentleman from California.

The amendment imposes duties on the Secretary of State, of HEW and the Attorney General, which are not contemplated in the bill. . . .

MR. ANDERSON of California: . . . My amendment really adds nothing new to what we are talking about here today. It says that the Federal Government shall provide funds for all necessary expenses incurred in the immigration and settlement of Vietnamese nationals in the United States. That is what we are talking about here today.

Now, most of us feel or hope, at least, that it is covered already in Public Law 87–510, section 2(b)(2), which is the Migration Refugee Act of 1962; but we are not sure about that. We are not clear about that.

What my amendment does is make clear what we are going to do with these refugees, that it is the responsibility of the Federal Government and not of State and local government.

THE CHAIRMAN:[11] The Chair is ready to rule. In the opinion of the Chair the legislation before us pertains to evacuation and humanitarian aid.

The amendment of the gentleman from California does go beyond that into the question of immigration and settlement. It is not within the purview of the Committee on International Relations. In the opinion of the Chair it is not germane and the Chair sustains the point of order.

Humanitarian Aid—Military Assistance

§ 4.53 To a bill reported from the Committee on International Relations authorizing funds to provide humanitarian and evacuation assistance and authorizing the use of United States troops to provide that assistance, an amendment authorizing funds for military aid to a foreign country (generally a subject within the jurisdiction of the Committee on Armed Services) to be used by that country to fur-

11. Otis G. Pike (N.Y.).

ther the fundamental purpose of the bill was held germane.

On Apr. 23, 1975,[12] during consideration of the Vietnam Humanitarian and Evacuation Assistance Act[13] in the Committee of the Whole, the Chair overruled a point of order against an amendment as indicated below:

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Stratton to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar:

Page 1, line 6; strike out "$150,000,000" and insert "$300,000,000".

Page 2, line 2; delete the period at the end of the line, insert a semicolon and add the following: "*Provided* that $150,000,000 of such sum shall be available to the President solely for military aid to South Vietnam to provide such protection as he may deem necessary to insure the delivery of the humanitarian assistance and evacuation programs authorized in this section."

MR. [ROBERT L.] LEGGETT [of California]: Mr. Chairman, I make a point of order. . . .

Mr. Chairman, military aid to Vietnam is not included in the jurisdiction of the Committee on Foreign Affairs. It is under the jurisdiction of the Committee on Armed Services. It is under the MACV account and DAV account, and the attempt has been made in the past to vest this jurisdiction in the Committee on Foreign Affairs. The committee does not have jurisdiction over this subject matter and cannot give military aid. As a result, the amendment is not germane, and I make that point of order. . . .

MR. STRATTON: . . . This amendment is perfectly in order. This would provide additional funds to the President to use, in his discretion, to provide protection for the humanitarian assistance and evacuation provided in the bill.

I would invite the Chair's attention to the fact that section 3 of the amendment refers in considerable detail to the military appropriations and to military actions, and that section 2 of the substitute provides funds to the President to be used notwithstanding any other provision of law on such terms and conditions as the President may deem appropriate.

The basic legislation and the Eckhardt substitute both refer to legislation that deals with military assistance to Vietnam, and therefore, this amendment is in order.

THE CHAIRMAN:[14] The Chair is prepared to rule.

There is within the bill the provision for humanitarian assistance and evacuation assistance. The amendment proposed by the gentleman from New York (Mr. Stratton) goes to aid, to provide for the delivery of military aid, to be sure, but it is to insure the delivery

12. 121 CONG. REC. 11509, 94th Cong. 1st Sess.

13. H.R. 6096.

14. Otis G. Pike (N.Y.).

of humanitarian assistance and the evacuation programs, and in that form the amendment is germane to the substitute, and the point of order is overruled.

Bill Providing Foreign Assistance Authorizations, Amended to Include Import Restrictions—Amendment Adding Further Import Restrictions

§ 4.54 While committee jurisdiction may be an appropriate test of germaneness where the bill as reported contains matter only within the jurisdiction of the reporting committee, where the bill is amended in Committee of the Whole to include matters within the jurisdiction of another committee, further similar amendments may be germane; thus, where a bill reported from the Committee on Foreign Affairs providing foreign assistance authorizations had been amended in Committee of the Whole to include diverse import restrictions (a matter within the jurisdiction of the Committee on Ways and Means), a further amendment adding a new title to provide a similar import prohibition against products from another designated country was held germane to the bill in its amended form.

On July 11, 1985,[15] during consideration of the International Security and Development Cooperation Act of 1985[16] in the Committee of the Whole, Chairman Les AuCoin, of Oregon, in overruling a point of order held the following amendment to be germane to the bill:

MR. [WILLIAM B.] RICHARDSON [of New Mexico]: Mr. Chairman, I offer an amendment that would create a new title, title XIV. . . .

The Clerk read as follows:

Amendment offered by Mr. Richardson: Page 154, after line 24, insert the following new section: . . .

TITLE XIII.—BAN ON IMPORTING URANIUM AND COAL FROM SOUTH AFRICA AND NAMIBIA

(a) Prohibition.—Notwithstanding any other provision of law, the following products of South Africa and Namibia may not be imported into the customs territory of the United States: coal, uranium ore, and uranium oxide.

(b) Effective Date.—The prohibition contained in subsection (a) shall not apply to a contract or agreement entered into before the date of the enactment of this Act. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New Mexico [Mr. Richardson] on the ground that it violates

15. 131 CONG. REC. 18601, 18602, 99th Cong. 1st Sess.

16. H.R. 1555.

clause 7 of rule XVI of the rules of the House and is not germane to the bill. Clause 7 of rule XVI provides that no motion or proposition on a subject different from that under consideration shall be considered under color of amendment. One test of germaneness is whether the fundamental purpose of the amendment is germane to the fundamental purpose of the bill or title.

Another test of germaneness (is) whether the amendment is within the jurisdiction of the committee reporting the bill.

The sole purpose of the amendment is to prohibit the importation of uranium and coal from South Africa. Clearly this is a measure within the jurisdiction of the Committee on Ways and Means.

The bill as reported amends various acts within the jurisdiction of the Committee on Foreign Affairs. The fundamental purpose of the bill is to authorize appropriations for foreign development and security assistance programs for the fiscal year 1986.

The bill as reported contains no provisions to impose import prohibitions or other restrictions or sanctions on any product from South Africa or from any other country.

There were two amendments added yesterday which have already been referenced.

The only limitations in the bill as reported, however, relate to the use of foreign aid funds.

The amendment clearly does not relate to the subject matter or to the fundamental purpose of the bill or the title, since there is no fundamental purpose of the title pending.

The subject matter of the amendment, or rather the current title, now includes a matter relating to Mozambique, not to any import restrictions.

The subject matter of the amendment is also not within the jurisdiction of the committee reporting the bill.

Mr. Chairman, in my judgment, for all these reasons, the amendment fails every test of germaneness and I urge that the point of order be sustained. . . .

MR. RICHARDSON: . . . First of all, let me state that this is an issue of foreign relations between the Governments of the United States and South Africa.

Second, in this bill there have been import restrictions imposed on terrorist countries; Libya, Ethiopia, the Gilman amendment, the Hunter amendment.

Let me also make the case that this bill does not affect any tariffs, any duties or import fees, according to the tariff schedules of the United States for 1985.

This is a foreign relations matter. It is an important foreign policy statement between the United States and South Africa and it does not affect the jurisdiction of the Ways and Means Committee.

THE CHAIRMAN: The Chair is prepared to rule.

The pending amendment is not an amendment to the Mozambique amendment which just inserted a new title XIII, but rather a new title XIV. As a new title to the bill at the end of the bill, the test of germaneness is whether it is germane to the bill as a whole.

Title IV of the bill has been amended to include several import restrictions, specifically the Hunter amendment re-

garding imports from countries which harbor terrorists, and the Gilman amendment to the Miller amendment relating to imports from Libya.

Therefore, the Chair finds that the amendment is germane to the bill as a whole in its amended form and the point of order is overruled.

Parliamentarian's Note: It might be argued that a point of order could be made under Rule XXI, clause 5(b), that the amendment was a tariff amendment, as a total prohibition on imports. But as Mr. Richardson observed, there was no tariff under existing tariff law against uranium and coal imported from South Africa, so that a restriction on imports would not have affected the tariff schedules or revenue levels under existing law. Probably, an import prohibition amendment could only be considered a tariff measure within the meaning of Rule XXI, clause 5(b), where an effect on tariff schedules could be shown.

Different Classes of Penalties for Violation of Export Controls

§ 4.55 To a bill relating to the imposition of penalties of a certain class, all falling within the jurisdiction of one committee, an amendment relating to another class of penalties falling within the jurisdiction of another committee, is not germane; thus, to a title of a bill reported from the Committee on Foreign Affairs comprehensively amending the Export Administration Act, and addressing penalties for violating export controls within that committee's jurisdiction, such as revocation of export licenses and forfeiture of property interests and proceeds related to exports, an amendment authorizing the President to control imports by persons violating export controls was held non-germane, as a penalty not within the class covered by the title and by the Export Administration Act, and as a matter within the jurisdiction of another committee (Ways and Means).

During consideration of the Export Administration Amendments Act of 1983[17] in the Committee of the Whole on Sept. 29, 1983,[18] the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

The text of title I reads as follows:

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17. H.R. 3231.

18. 129 CONG. REC. 26467, 26484, 26485, 98th Cong. 1st Sess.

TITLE I—AMENDMENTS TO EXPORT ADMINISTRATION ACT OF 1979

REFERENCE TO THE ACT

Sec. 101. For purposes of this title, the Export Administration Act of 1979 shall be referred to as "the Act".

VIOLATIONS

Sec. 102. (a) Section 11(b) of the Act (50 U.S.C. App. 2410(b)) is amended by inserting after paragraph (2) the following new paragraphs:

"(3) Any person who conspires or attempts to export anything contrary to any provision of this Act or any regulation, order, or license issued under this Act shall be subject to the penalties set forth in subsection (a), except that in the case of a violation of an export control imposed under section 5 of this Act, such person shall be subject to the penalties set forth in paragraph (1) of this subsection. . . .

(b) Section 11(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) An exception to any order issued under this Act which revokes the authority of a United States person to export goods or technology may not be made unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate are first consulted concerning the exception.". . . .

"(f) Forfeiture of Property Interest and Proceeds.—Any person who is convicted of a violation of an export control imposed under section 5 of this Act shall, in addition to any other penalty, forfeit to the United States (1) any property interest that person has in the goods or technology that were the subject of the violation or that were used to facilitate the commission of the violation, and (2) any proceeds derived directly or indirectly by that person from the transaction from which the violation arose.". . . .

MS. [OLYMPIA J.] SNOWE [of Maine]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Snowe: . . . Page 3, insert the following after line 21:

"(4) Any individual or business concern that violates any national security control imposed under section 5 of this Act which the United States maintains cooperatively with other countries, or any regulation, order, or license related thereto, may be subject to such controls on the importing of its goods or technology into the United States or its territories and possessions as the President may prescribe.". . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order that the amendment is in violation of clause 7, rule XVI, and is not germane to the bill.

The tests of germaneness include whether the fundamental purpose of an amendment is germane to the fundamental purpose of the bill or title and whether an amendment contemplates a method of achieving that end that is closely allied to the method encompassed in the bill.

Another test of germaneness is whether an amendment, when considered as a whole, is within the jurisdiction of the committee reporting the bill and whether the amendment demonstrably affects a law within another committee's jurisdiction.

The Ways and Means Committee is the committee with jurisdiction over

restrictions on the importation of goods and services. Also, section 232 of the Trade Expansion Act of 1962 governs the control of imports that have an effect on national security. The gentlewoman's amendment clearly seeks to establish a separate mechanism and authority for controlling imports if the effect on the national security is related to high technology exports and, therefore, demonstrably affects a law within the jurisdiction of the Committee on Ways and Means.

Mr. Chairman, because I believe the amendment violates both of those tests of germaneness, I make a point of order that the amendment violates clause 7, rule XVI. . . .

MS. SNOWE: . . . First of all, let me indicate that the amendment I have offered meets the test of germaneness, I believe, as outlined in rule XVI, clause 7:

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The subject that we have under consideration is a bill that modifies the Export Administration Act. This act deals with the flow of goods between the United States and foreign countries, and with an organization we maintain cooperatively with other countries to regulate the flow of goods and technology between all countries of the world. Specifically, the report of the Foreign Affairs Committee states as the purpose of the act:

> The Export Administration Act of 1979 provides broad authority for controlling the export from the United States to potential adversary nations of civilian goods and technology.

The report goes on to state:

> The broad policy provision of the act allows considerable latitude to the executive branch to implement national security and trade policies.

The subject of my amendment, similarly, deals with the flow of goods between the United States and foreign countries. My amendment allows the executive branch authority to protect national security and to conduct a coherent trade policy.

My amendment provides the President certain powers, namely, the imposition of import controls, as a means of enforcing the cooperative agreements we maintain with other countries.

The amendment is offered to the violations section of the bill and, as such, merely extends the already existing powers available to punish violations under the Export Administration Act.

My amendment also meets the fundamental purpose test of germaneness. The Rules of the House under rule 16 indicate that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. In this instance, the fundamental purpose of both the bill and the amendment is to allow the United States to effectively regulate the flow of goods between countries. Deschler's Procedure, chapter 28, section A6.1 indicates:

> In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill . . .

I would point out to the Chair that the bill we are considering contains language in section 322 of title III pro-

hibiting the import into the United States of South African Krugerrands or other gold coins minted in South Africa. Thus, the bill already contains specific language imposing import restrictions. The import control language in my amendment follows the purpose of the bill as reported by the Foreign Affairs Committee—that of controlling sensitive technology which is vital to our national security.

The House rules further indicate that a general subject may be amended by specific propositions of the same class. As elaboration, I cite section A9.21 of chapter 28 of Deschler's Procedure:

> Where a bill seeks to accomplish a general purpose by diverse methods, an amendment which adds a specific method to accomplish that result may be germane.

In this instance, the general purpose of the bill is to authorize U.S. participation in Cocom and to regulate the flow of sensitive technology between countries. My amendment sets forth a specific method, that of import control authority, as a means to accomplish the general purpose of the bill.

Deschler's Procedure further states in chapter 28, section A5.1:

> In determining the fundamental purpose of a bill and of an amendment offered thereto, the Chair may examine the broad scope of the bill and the stated purpose of the amendment and need not be bound by ancillary purposes that are merely suggested by the amendment.

I would point out to the Chair that my amendment has as its broad purpose the strengthening of our export policy and our relationship with our Cocom partners. That, as well, is what is addressed in the scope of the bill before us.

My amendment also meets the test of committee jurisdiction in determining germaneness. The Foreign Affairs Committee, under rule X, is given jurisdiction over:

> (1) Relations of the United States with foreign nations generally,
>
> (2) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad, and
>
> (3) Measures relating to international economic policy.

My amendment falls generally under these jurisdictional grants, and specifically is covered by the authority of the Foreign Affairs Committee "to foster commercial intercourse with foreign nations and to safeguard American business interests abroad." . . .

THE CHAIRMAN:[19] The Chair is prepared to rule.

The Chair has examined the sanctions contained in the Export Administration Act and is satisfied that the act as amended by the pending bill does not contain authority to impose import sanctions, that the matter is within the jurisdiction of the Committee on Ways and Means.

The gentlewoman has cited a general jurisdictional claim of the Committee on Foreign Affairs; however, the specific jurisdiction over imports is within the jurisdiction of the Committee on Ways and Means.

The Chair would cite the precedent appearing at chapter 28, subsection 4.34 of Deschler's Procedure:

> To a title of a bill reported from the Committee on Interstate and

19. John F. Seiberling (Ohio).

Foreign Commerce containing diverse petroleum conservation and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane.

The Chair would also cite chapter 28, subsection 4.30 of Deschler's Procedure wherein:

To a section of a bill reported from the Committee on Agriculture providing a 1-year price support for milk, an amendment expressing the sense of the Congress that the President shall impose certain tariff duties on imported dairy products was held to go beyond the purview of the pending section and to involve a matter within the jurisdiction of the Committee on Ways and Means, and was ruled out as not germane.

There are other similar precedents, but it seems to the Chair those are sufficient for purposes of supporting this ruling.

Accordingly, the Chair rules that the amendment of the gentlewoman is not germane to title I and, therefore, it is ruled out of order. The point of order is sustained.

Bill Imposing Penalties for Desecration of Flag—Amendment Placing Restrictions on Exporting Flag

§ 4.56 To a bill establishing penalties for desecration of the American flag, an amendment establishing certain restrictions upon exporting the flag was held to be not germane.

In the 90th Congress, during consideration of a bill[20] to prohibit desecration of the flag, the following amendment was offered:[1]

Amendment offered by Mr. (John M.) Murphy of New York: On page 3, after line 19, insert the following new sections: . . .

Sec. 5. (a) The President of the United States shall prohibit the exportation from the United States of the flag of the United States in any case in which he determines that the use for which such flag is intended after such exportation is inconsistent with the respect which should be accorded the flag of the United States.

Mr. Byron G. Rogers, of Colorado, contended that the amendment was not germane.

The bill, it may be noted, had been reported by the Committee on the Judiciary, while the amendment relating to the exportation of the flag was a matter within the jurisdiction of the Committee on Foreign Affairs.

The Chairman,[2] in ruling on the point of order, stated:

The pending bill deals with the desecration of the flag. The amendment offered by the gentleman from New York is not germane because it deals with the question of the issuance of orders by the President relative to the exportation of goods, et cetera. The Chair

20. H.R. 10480 (Committee on the Judiciary).

1. 113 CONG. REC. 16495, 90th Cong. 1st Sess., June 20, 1967.

2. William M. Colmer (Miss.).

holds that the amendment is not germane, and sustains the point of order.

Bill Relating to Elections in Puerto Rico—Amendment Affecting Tax Laws Applicable to Puerto Rico

§ 4.57 To a bill relating to election of the Governor and members of the Supreme Court of Puerto Rico, an amendment relating to tax laws applicable to Puerto Rico was held not germane.

On June 16, 1947, a bill as described above was being considered under consent calendar procedure. The following amendment was offered to the bill: [3]

> Amendment offered by Mr. [Fred L.] Crawford [of Michigan] to the committee amendment:
>
> On page 7, line 20, after section 6, insert:
>
> Sec. 7. Section 3360(c) of the Internal Revenue Code is amended to read as follows:
>
> (c) Deposit of internal-revenue collections: Not to exceed 75 percent of all taxes collected under internal-revenue laws of the United States on articles produced in Puerto Rico . . . shall be deposited in a special fund . . . to be available for appropriation by Congress for the construction of public works . . . and for public relief and other public purposes in Puerto Rico.

A point of order was raised against the amendment, as follows:

> MR. [ANTONIO M.] FERNANDEZ [of New Mexico]: Mr. Speaker, I make the point of order that the amendment is not germane. The amendment is with respect to the collection of customs. The bill is limited solely to the political aspects of Puerto Rico and solely for the election of a governor and members of the Supreme Court. Furthermore, this amendment is one another committee of the House has jurisdiction over and our committee has not had anything to do with this amendment.

The Speaker,[4] in ruling on the point of order, stated:

> Unquestionably the amendment proposed is a matter that comes within the jurisdiction of the Committee on Ways and Means; therefore not germane to the pending amendment or to the bill. The Chair sustains the point of order.

Bill Amending Law To Reauthorize Rural Housing Loan and Grant Programs—Amendment Authorizing Pooling of Guaranteed Rural Housing Loans Under Another Law

§ 4.58 Committee jurisdiction is a relevant test of germaneness where the pending portion of the bill amends a law entirely within one committee's jurisdiction and the proposed amendment amends a law within another

3. 93 CONG. REC. 7079, 80th Cong. 1st Sess.

4. Joseph W. Martin, Jr. (Mass.).

committee's jurisdiction; thus, to a title of an omnibus housing bill amending a law within the jurisdiction of the Committee on Banking, Finance and Urban Affairs to reauthorize rural housing loan and grant programs, an amendment to another law within the jurisdiction of the Committee on Agriculture authorizing the pooling of federally guaranteed rural housing loans was held not germane as amending a law not amended by the pending title and within the jurisdiction of another committee.

On July 31, 1990,[5] the Committee of the Whole had under consideration title VI of the Housing and Community Development Act[6] when the amendment described above was offered. A point of order against the amendment was sustained, demonstrating that the test of germaneness to a pending title of a bill is the relationship of the amendment to the law being amended by that title, and not to other portions of the bill not then pending for amendment. The proceedings were as follows:

The text of title VI is as follows:

TITLE VI—RURAL HOUSING

SEC. 601. PROGRAM AUTHORIZATIONS.

(a) Insurance and Guarantee Authority.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1990 and 1991 in aggregate amounts not to exceed $1,906,220,000 and $2,091,200,000, respectively, as follows: . . .

MR. [DOUG] BEREUTER [of Nebraska]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bereuter: Page 358, lines 12 and 13, strike "this section" and insert "subsections (b) and (c)". . . .

Page 359, after line 18, insert the following new subsection:

(e) Agricultural Mortgage Secondary Market.—

(1) Expansion of Secondary Market Authority.—Section 8.0 of the Farm Credit Act of 1971 (12 U.S.C. 2279a) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by striking "or" at the end;

(ii) in subparagraph (B)(ii), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) a principle residence eligible for a loan that is guaranteed pursuant to or meets the requirements of subsection (f) of section 502 of the Housing Act 1949.";

(B) in paragraph (3), by inserting after the period at the end the following new sentence: "With respect to qualified loans described in the last sentence of paragraph (9), the

5. 136 CONG. REC. p. —, 101st Cong. 2d Sess.

6. H.R. 1180.

term includes the Corporation and any affiliate of the Corporation."; and

(C) in paragraph (9), by inserting after the period at the end the following new undesignated paragraph:

"With respect to loans on agricultural real estate described in paragraph (1)(C), the term means the portion of a loan guaranteed by the Secretary of Agriculture pursuant to section 502(f) of the Housing Act of 1949, except that (A) subsections (b) through (f) of section 8.6 and sections 8.7, 8.8, and 8.9 shall not apply to the portion of a loan guaranteed by the Secretary. . . .

MR. [GLENN] ENGLISH [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, I object to the amendment on the grounds that it is nongermane to the bill under rule 16, clause 7 of the rules of the House, because the amendment seeks to make substantial and fundamental changes in a statute and subject matter not contemplated by the underlying bill, and because the amendment addresses a subject matter different from that under consideration by the House.

The amendment is nongermane because it proposes to amend a subject matter outside the scope of the underlying bill by altering the fundamental purpose of the Federal Agricultural Mortgage Corporation. The Federal Agricultural Mortgage Corporation was established under the Agricultural Credit Act of 1987 to act as a guarantor of certain agricultural real estate mortgage loans. The amendment would alter the fundamental purpose of the Corporation to allow it to act as a pooler of housing loans guaranteed by the Federal Government.

The amendment proposes to amend the Farm Credit Act of 1971, a statute not addressed in the underlying bill. The Farm Credit Act has as its fundamental purpose the governance of the extension of credit to farmers and ranchers. By contrast, H.R. 1108 has as its fundamental purpose the authorization of Federal housing programs.

Finally, the amendment addresses a subject matter within the jurisdiction of the Committee on Agriculture, the amendment has not been considered by this committee, and relevant precedents of the House hold that committee jurisdiction is a relevant test of germaneness when the pending text of the bill is entirely in one committee's jurisdiction and the amendment falls within another committee's purview. . . .

MR. BEREUTER: . . . Mr. Chairman, I would point out that the rural housing and housing generally is in the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

Title VII is a rural housing title. The amendment offered by this gentleman would enhance credit opportunities for rural housing.

Second, title VI, specifically section 608 of the bill, requires that the Agricultural Secretary consult with Farmer Mac when promulgating regulations to implement the Farmers Home Administration guarantee program.

Third, title VII, section 741, already discusses secondary markets in that it reauthorizes Ginnie Mae for 1 year.

Fourth, title VII, section 754, includes other secondary-market entities such as Fannie Mae and Freddie Mac regarding mortgage servicing transfer disclosures.

Finally, title I would create a housing trust. The title also requires estab-

lishment of a board to include Fannie Mae and Freddie Mac to oversee the trust.

THE CHAIRMAN:[7] The Chair is ready to rule.

The Chair concedes that there is some relationship between the housing and credit jurisdiction of the two committees, but title VI of the bill does not amend the Farm Credit Act, and the amendment amends that law which is within the primary jurisdiction of the Committee on Agriculture. Therefore, the Chair sustains the point of order that the amendment is not germane to title VI.

—Amendment Offered as New Title Expressing Sense of Congress That Congress Should Enact Legislation Providing for Enterprise Zone Program and Tax Incentives Affecting Housing

§ 4.59 To a bill broadly addressing the subjects of housing and community development within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, an amendment expressing the sense of the Congress that certain legislation, including an extension of the low-income housing tax credit, should be enacted, is not germane since the amendment deals with tax policy, a matter within the jurisdiction of the Committee on Ways and Means.

During consideration of the Housing and Community Development Act[8] in the Committee of the Whole on Aug. 1, 1990,[9] the Chair sustained a point of order against the following amendment:

MR. [STEVE] BARTLETT [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bartlett: Page 594, after line 2, insert the following new title (and conform the table of contents, accordingly):

TITLE IX—GENERAL PROVISIONS

SEC. 901. SENSE OF CONGRESS REGARDING HOUSING TAX POLICY.

(a) Congressional Findings.—The Congress finds that tax policy is an integral component of effective housing and neighborhood revitalization policy.

(b) Sense of Congress.—It is, therefore, the sense of the Congress that the Congress should enact legislation during the 101st Congress providing a viable enterprise zone program, an individual retirement account program for homeownership, and an extension of the low-income housing tax credit. . . .

MR. [DAN] ROSTENKOWSKI [of Illinois]: Mr. Chairman . . . I make the point of order on the amendment on the ground that it is not germane to the legislation and is in violation of clause 7 of House rule XVI.

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7. John P. Muntha (Pa).

8. H.R. 1180.

9. 136 CONG. REC. p.—, 101st Cong. 2d Sess.

This amendment, like the previous amendment, would express the sense of the Congress on matters not within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. I therefore make a point of order that the amendment is not germane to the bill. . . .

MR. BARTLETT: Mr. Chairman, as I said on the last point of order on the sense of Congress, housing policy is germane to a housing bill, and it is within the jurisdiction of the Committee of the Whole, which is the Committee that is considering this bill.

THE CHAIRMAN:[10] The Chair is prepared to rule.

An expression of the sense of Congress that there should be enacted in this Congress a viable enterprise zone program, individual retirement accounts, and extension of low income housing tax credits addresses matter of tax policy under the jurisdiction of the Committee on Ways and Means, and, therefore, the Chair sustains the point of order based on the prior ruling. The germaneness rule applies in the Committee of the Whole.

Bill Providing for Grant and Credit Programs for Housing and Community Development—Amendment Expressing Sense of Congress as to Tax Policies Affecting Housing

§ 4.60 The Committee of the Whole may not consider amendments expressing the sense of Congress on a subject unrelated to the pending bill and within the jurisdiction of a committee other than that reporting the bill; thus, to a bill dealing with housing and community development grant and credit programs (a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs), an amendment expressing the sense of Congress that other federal law should reflect a stated tax policy with respect to housing was held not germane as within the jurisdiction of another House committee (the Committee on Ways and Means) and dealing with the subject of housing by an unrelated method.

On Aug. 1, 1990,[11] during consideration of the Housing and Community Development Act[12] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

MR. [STEVE] BARTLETT [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

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10. John P. Murtha (Pa.).

11. 136 CONG. REC. p. —, 101st Cong. 2d Sess.

12. H.R. 1180.

Amendment offered by Mr. Bartlett:

Page 594, after line 2, insert the following new section (and conform the table of contents, accordingly):

SEC. 902. SENSE OF CONGRESS REGARDING MORTGAGE INTEREST DEDUCTION.

(a) Findings.—The Congress finds that—

(1) homeownership is a fundamental American ideal, which promotes social and economic benefits beyond the benefits that accrue to the occupant of the home . . .

(3) it is proper that the policy of the Federal Government is, and should continue to be, to encourage homeownership . . .

(6) the current Federal income tax deduction for interest paid on debt secured by first and second homes is of crucial importance to the economies of many communities; and

(7) the continued deductibility of interest paid on debt secured by a first or second home has particular importance in promoting other desirable social goals, such as education of young people.

(b) Sense of Congress.—It is the sense of the Congress, therefore, that the current Federal income tax deduction for interest paid on debt secured by a first or second home should be preserved. . . .

MR. [DAN] ROSTENKOWSKI [of Illinois]: . . . Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the legislation and is in violation of clause 7 of House rule XVI. This amendment would express the sense of Congress on matters not within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, and I therefore make the point of order that the amendment is not germane to the bill. . . .

MR. BARTLETT: . . . First, this amendment, a sense of the Congress with regard to housing, is clearly germane to a housing bill. It is germane under clause 6, rule XVI in that the housing bill itself would seek to extend and amend certain laws related to housing, community and neighborhood development and preservation and related programs. . . .

The home mortgage deduction relates to housing. It is clearly germane to the bill.

It is clearly within the jurisdiction of the full House to consider a sense of the Congress on virtually any subject. It is within the jurisdiction of the Committee of the Whole to consider a sense of the Congress amendment as an amendment to a housing bill if the amendment relates to housing.

So first, it is germane. It does not direct another committee to do anything at all. It states that this Committee of the Whole believes that a mortgage interest deduction is an essential part of housing, and this is a housing bill.

Second, while an argument was made at the committee level in the Committee on Banking, Finance and Urban Affairs that it was not germane to it, that it was not within the jurisdiction of the Banking Committee, and I think that at least has some validity to it, although I do not think it is correct with regard to a sense of the Congress. The fact is that this is not the Banking Committee. Mr. Chairman, we are convened as a Committee of the Whole House. Four hundred thirty-five Members of this Committee of the Whole House has jurisdiction over a sense of the Congress with regard to this particular housing policy.

This is not the Committee on Ways and Means and it is not the Committee on Banking, Finance and Urban Affairs. It is the Committee of the Whole House.

Third, the bill, this sense of Congress does not provide for a tax or tariff measure. It is a sense of Congress. . . .

MR. [BILL] FRENZEL [of Minnesota]: . . . Mr. Chairman, the amendment which has just been raised by the gentleman from Texas is a sense-of-Congress resolution which relates to material under jurisdiction of another committee. It expresses a pious hope which many of us may share, but it has nothing to do with the bill in question. It is as if the House should make a resolution or a sense-of-Congress resolution that would say the Agriculture Department should plant more trees. That too would relate to housing, but in a very—in a manner such as is not acceptable under our rules. . . .

THE CHAIRMAN:[13] . . . The Chair is prepared to rule.

The gentleman from Illinois makes the point of order that the amendment offered by the gentleman from Texas is not germane to the bill. The bill comprehensively addresses the general subject of public housing and community development. The amendment offered by the gentleman from Texas adds to the bill an expression of the sense of Congress concerning tax deductions.

Although the topic is conceptually related to the topic of public housing, it addresses questions of tax policy, matters within the jurisdiction of the Committee on Ways and Means.

The Chair is guided by the precedent of February 9, 1984, cited in Deschler-Brown Procedure, Chapter 28, section 4.47 to a bill reported from the Committee on Science and Technology, authorizing environmental research and development activities of an agency, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement authority, matters within the jurisdiction of the Committee on Energy and Commerce was held not germane.

Likewise to the pending bill addressing public housing and community development within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, an amendment expressing the sense of Congress on matters of tax policy is not germane. The point of order is, therefore, sustained.

Bill To Provide Employment Opportunities Through Projects To Renovate Community Facilities—Amendment Providing Tax Incentives for Enterprise Zones

§ 4.61 To a bill reported from the Committee on Education and Labor authorizing a program of financial assistance to provide employment opportunities to unemployed individuals in areas of high unemployment, in projects to repair and renovate community facilities, an amendment in the nature of a substitute proposed in a motion to recommit providing instead for

13. John P. Murtha (Pa.).

federal income tax incentives for enterprise zones through amendments to the Internal Revenue Code (and for other forms of special treatment for enterprise zones through amendment of other acts), was held not germane as unrelated to the subject matter of the bill and beyond the jurisdiction of the reporting committee, and was held to be a tax measure offered to a bill not reported by a committee with jurisdiction over tax measures, in violation of clause 5(b) of Rule XXI.

During consideration of the Community Renewal Employment Act[14] in the House on Sept. 21, 1983,[15] Speaker Thomas P. O'Neill, of Massachusetts, sustained a point of order against a motion to recommit with instructions to re-report the bill with an amendment. The text of the bill provided in part:

> Sec. 201. (a) Eligible participants shall be employed in community improvement projects under this title in one or more of the following activities:
>
> (1) activities to repair, rehabilitate, or improve public facilities, including (A) road and street repair, (B) bridge painting and repair, (C) repair and rehabilitation of public buildings and other community facilities, including public libraries, (D) repair, modernization, and moderate rehabilitation of public housing units, (E) repair and rehabilitation of water systems and water development projects, (F) repair and rehabilitation of public mass transportation systems, (G) erecting or replacing traffic control signs and removing road sign obstructions . . .
>
> (2) activities to conserve, rehabilitate, or improve public lands, including (A) erosion, flood, drought, and storm damage assistance and control . . .
>
> (3) public safety, health, social service, and other activities necessary to the public welfare, including (A) repairing or replacing fire hydrants and assisting in fire hazard inspections . . . (R) rodent and insect control activities, (S) hazardous materials surveys, and (T) employment counseling and placement services. . . .
>
> (d) Projects to be carried out under subsection (a)(2) shall be limited to projects on public lands or Indian lands except where a project involving other lands will provide a documented public benefit and reimbursement will be provided to the recipient for that portion of the total costs of the project which does not provide a public benefit. . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER: The Clerk will read the motion to recommit.

The Clerk read as follows:

> Mr. Erlenborn moves to recommit the bill, H.R. 1036, to the Committee on Education and Labor with instructions that the Committee re-re-

14. H.R. 1036.

15. 129 CONG. REC. 25111, 25138–45, 98th Cong. 1st Sess.

port the bill back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; AMENDMENTS OF 1954 CODE.

(a) Short Title.—This title may be cited as the "Enterprise Zone Act of 1983".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. PURPOSES.

It is the purpose of this Act to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(a) tax relief at the Federal, State, and local levels;

(b) regulatory relief at the Federal, State, and local levels; and

(c) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations. . . .

TITLE II—FEDERAL INCOME TAX INCENTIVES

SUBTITLE A—CREDITS FOR EMPLOYERS AND EMPLOYEES

SEC. 201. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) Credit for Increased Enterprise Zone Employment and Employment of Disadvantaged Workers.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44H. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) In General.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year. . . .

TITLE IV—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. 401. FOREIGN-TRADE ZONE PREFERENCES.

(a) Preference in Establishment of Foreign-Trade Zones in Revitalization Areas.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7871 of the Internal Revenue Code of 1954.

(b) Application Procedure.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making

appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes,'' approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone.

(c) Application Evaluation.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities. . . .

MR. [AUGUSTUS F.] HAWKINS [of California]: Mr. Speaker, my point of order is on the grounds that the motion to recommit contains language of a tax bill which cannot be put on a nontax bill; and, second, the amendment is not germane to the bill under consideration. . . .

MR. ERLENBORN: Mr. Speaker, the gentleman from California (Mr. Hawkins) is correct in that there is language relative to tax law in the motion to recommit. I submit that the purpose of the motion to recommit and the purpose of the amendment would be to enact the enterprise zone proposal that has been supported very broadly in both Houses of the Congress, and that it would reduce unemployment in the communities across the country where we have high levels of unemployment, though I admit it would do so in a somewhat different manner. It would do so through tax incentives and the creation of real meaningful jobs in the private sector rather than public service type jobs.

Mr. Speaker, I hope it would be considered germane since the purposes are the same. We just have a better way of doing it.

THE SPEAKER: The Chair is ready to rule.

It is very obvious to the Chair that the motion to recommit offered by the gentleman from Illinois (Mr. Erlenborn) is not germane. This is a tax amendment, and the Committee on Education and Labor has no jurisdiction over it.

So the point of order is well taken under clause 7 rule XVI and under clause 5(b) rule XXI, and the point of order is sustained.

Conference Report on House Bill Authorizing Funds for Public Works Jobs—Senate Amendment Mandating Already Appropriated Funds for Public Works and Reclamation

§ 4.62 In a conference report on a House bill (originally reported from the Committee on Public Works and Transportation) authorizing funds for state and local governments to create new public works jobs, a Senate amendment adding a new title to mandate the expenditure of already appropriated funds for public works and rec-

lamation (as a purported disapproval of the deferral of such funds under the Impoundment Control Act) and to set a discount rate for reclamation and public works projects—matters within the respective jurisdictions of the Committees on Appropriations and Interior and Insular Affairs—was conceded to be nongermane and subject to a point of order under clause 4 of Rule XXVIII and to a motion to reject that portion.

On May 3, 1977,[16] the House had under consideration the conference report on H.R. 11 when the situation described above occurred; the proceedings were as follows:

MR. [ROBERT A.] ROE [of New Jersey]: Mr. Speaker, I call up the conference report on the bill (H.R. 11) to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

MR. [ROBERT A.] YOUNG of Missouri: Mr. Speaker, I make a point of order against the conference report.

THE SPEAKER PRO TEMPORE:[17] The gentleman will state his point of order.

MR. YOUNG of Missouri: Mr. Speaker, the inclusion of title II of the conference report on H.R. 11 is in violation of clause 4 of rule XXVIII of the Rules of the House of Representatives.

Mr. Speaker, it should be obvious to my colleagues that this bill—H.R. 11—has come back from conference with an unrelated, nongermane amendment.

Title 1 of this bill authorizes $4 billion to be channeled to State and local governments throughout the country to create new public works jobs. The goal is to reduce the Nation's high unemployment rate.

In contrast, title 2 concerns previously approved water projects, with a principal goal of providing new flood control, water management and recreational benefits.

The jurisdiction over title 2 currently rests with the Appropriations Committee, and no longer involves the Public Works Committee. Therefore, title 2 should be excluded from consideration now and allowed to be handled by the appropriate committee.

My argument of nongermaneness is based on several precedents cited in Deschler's Procedure. May I call your attention to 4.25 of Deschler's chapter 28 which reads:

> To a bill reported by the Committee on Public Works authorizing funds for highway construction and for mass transportation systems which use motor vehicles on highways, an amendment relating to urban mass transit (a subject within the jurisdiction of the Committee on Banking and Currency) and to rapid rail transportation and assistance to the railroad industry (within the jurisdiction of the Committee on Interstate and Foreign Commerce) was ruled out as not germane. 118 Con-

16. 123 CONG. REC. 13242, 13243, 95th Cong. 1st Sess.

17. Abraham Kazen, Jr. (Tex.).

gressional Record 34111, 34115, 92d Congress, 2nd Session, Oct. 5, 1972.

I would also like to cite [4.9] reading:

An amendment relating to railroads generally, which was offered to a bill pertaining solely to urban transportation, was ruled out as not germane. 116 Congressional Record 34191, 91st Congress, 1st Session, Sept. 29, 1970.

Finally I ask you to refer to 4.12 which reads:

To a bill establishing penalties for desecration of the American flag, an amendment establishing certain restrictions upon exporting the flag was ruled out as not germane. 113 Congressional Record 16495, 90th Congress, 1st Session, June 20, 1967.

These precedents form the basis of my point of order—that title 2 is simply not germane to the local public works bill.

THE SPEAKER PRO TEMPORE: Does the gentleman from New Jersey (Mr. Roe) wish to be heard in debate on the point of order?

MR. ROE: No, Mr. Speaker. We concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey (Mr. Roe) concedes the point of order. The Chair sustains the point of order.

MR. YOUNG of Missouri: Mr. Speaker, I move, in conformity with the matter involved in the point of order, that the House reject title II of the conference report.

THE SPEAKER PRO TEMPORE: The gentleman from Missouri (Mr. Young) is recognized for 20 minutes on his motion.

Bill Amending Laws Relating to Housing and Urban Renewal—Amendment Delaying Effectiveness Pending Revenue Legislation

§ 4.63 To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held to be not germane.

The proceedings of May 21, 1959, relating to the Housing Act of 1959, are discussed in § 31.11, infra.

Housing Bill Authorizing Urban Property Insurance—Amendment Inaugurating Urban Insurance for District of Columbia

§ 4.64 To an omnibus housing bill, in part authorizing urban property protection and reinsurance and establishing a National Insurance Development Corporation, an amendment which sought to inaugurate a new program of urban insurance for the

District of Columbia was held to be germane.

In the 90th Congress, during consideration of the Housing and Urban Development Act of 1968,[18] the following amendment was offered:[19]

> Amendment offered by Mr. [Edward J.] Patten [of New Jersey]: On page 211, immediately after line 14, insert the following:
>
> TITLE XI—DISTRICT OF COLUMBIA INSURANCE PLACEMENT ACT
>
> DECLARATION OF PURPOSE
>
> Sec. 1102. The purposes of this title are—
>
> (1) to assure stability in the property insurance market for property located in the District of Columbia;
>
> (2) to assure the availability of basic property insurance as defined by this title. . . .

A point of order was raised against the amendment, as follows:[20]

> MR. [WILLIAM E.] BROCK [III, of Tennessee]: I make a point of order against the amendment on the ground that it is not germane, it would create a special class of beneficiary, and it would invade the jurisdiction of another committee.

In defending the amendment, the proponent, Mr. Patten, stated:

> Mr. Chairman, as far as our having a right to amend this bill at this point without referring it to the District of Columbia Committee, I am pretty sure our rules permit such action. . . .

The Chairman,[1] in ruling on the point of order, stated:

> . . . The Chair has examined title X closely. The name of title X is "Urban Property Protection and Reinsurance". On page 189, under "Definitions," it is stated that—
>
> (11) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific;
>
> The amendment offered by the gentleman from New Jersey deals with a matter of insurance, which the Chair feels is within the scope of the pending bill. The District of Columbia is included in the pending bill. Therefore, the Chair holds that the amendment is germane and overrules the point of order.

Bill Relating to Urban Mass Transportation—Amendment Relating to Railroads

§ 4.65 An amendment relating to railroads generally, which was offered to a bill pertaining solely to urban mass transportation, was held to be not germane.

In the 91st Congress, a bill[2] was under consideration which

18. H.R. 17989 (Committee on Banking and Currency).

19. 114 CONG. REC. 20526, 20527, 90th Cong. 2d Sess., July 10, 1968.

20. *Id.* at p. 20528.

1. Charles M. Price (Ill.).

2. H.R. 18125 (Committee on Banking and Currency).

had been reported by the Committee on Banking and Currency and which sought in part to direct the Secretary of Transportation to study the feasibility of federal assistance to defray operating costs of urban mass transportation companies. An amendment was offered[3] directing the Secretary of Transportation to study the feasibility of federal acquisition and maintenance of all fixed railroad facilities, a subject within the jurisdiction of the Committee on Interstate and Foreign Commerce. A point of order was raised against the amendment, as follows:

> MR. [WRIGHT] PATMAN [of Texas]: The amendment relates to a type of transportation that is not under the Secretary of Transportation. The railroads are not under the Secretary of Transportation. They are not included in the bill. Therefore the amendment is not germane.

The Chairman[4] noted that the amendment contained matters within the jurisdiction of the Committee on Interstate and Foreign Commerce. Stating further that, "The amendment does go beyond the scope of the pending bill and is not germane," the Chairman sustained the point of order.

Bill To Reorganize Amtrak—Amendment Providing for Tax Incentives To Improve Amtrak

§ 4.66 While committee jurisdiction is not the sole test of the germaneness of an amendment, it is an appropriate test where the pending text is entirely within one committee's jurisdiction and the amendment falls entirely within that of another committee; thus, to a bill within the jurisdiction of the Committee on Interstate and Foreign Commerce reorganizing Amtrak through financial assistance and other methods, to improve rail passenger services, an amendment to achieve track improvements solely through tax incentives by amending the Internal Revenue Code, is not a related method and is not germane, since it would fall within the jurisdiction of the Committee on Ways and Means.

On July 25, 1979,[5] a point of order was sustained against an amendment to the Amtrak Reorganization Act of 1979[6] during

3. 116 CONG. REC. 34191, 91st Cong. 2d Sess., Sept. 29, 1970.

4. John J. McFall (Calif.).

5. 125 CONG. REC. 20601, 20602, 96th Cong. 1st Sess.

6. H.R. 3996.

consideration in the Committee of the Whole, Chairman Leon E. Panetta, of California, holding that the amendment was not germane:

Amendment offered by Mr. Madigan: Page 102, after line 8, insert the following new title:

TITLE V—TAX INCENTIVES

CERTIFICATION OF QUALIFIED TRACK

Sec. 501. (a) Application.—Any rail carrier which makes improvements in railroad track which it owns and which is used by the National Railroad Passenger Corporation pursuant to an agreement entered into under section 402 of the Rail Passenger Service Act may apply to the Secretary of Transportation for certification of such track as qualified track for purposes of section 48 of the Internal Revenue Code of 1954. Any such application shall be submitted in such form and contain such information as the Secretary may by regulation require. . . .

Sec. 502. (a) Additional 10-Percent Credit for Railroad Energy Property.—(1) Subparagraph (A) of section 46(a)(2) of the Internal Revenue Code of 1954 (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) in the case of railroad energy property, the railroad energy percentage."

(2) Paragraph (2) of section 46(a) of such Code is amended by adding at the end thereof the following new subparagraphs:

"(F) Railroad Energy Percentage.—For purposes of this paragraph, the railroad energy percentage is—

"(i) 10 percent with respect to the period beginning on January 1, 1980, and ending on December 31, 1984, or

"(ii) zero with respect to any other period. . . .

(c) Credits With Respect to Railroad Energy Property To Be Refundable.—(1) Subsection (a) of section 46 of such Code is amended by adding at the end thereof the following new paragraph:

"(11) Refundable Credits for Railroad Energy Property.—

"(A) In General.—Under regulations prescribed by the Secretary, in the case of so much of the credit allowed by section 38 as is described in subparagraph (B)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63), such credit shall be treated as if it were allowed by section 39 and not by section 38. . . .

MR. [EDGAR L.] JENKINS [of Georgia]: Mr. Chairman, I make a point of order against this amendment.

The bill that is now under consideration, H.R. 3996, is a bill which restructures the Nation's rail passenger system. The amendment which is being offered by the gentleman from Illinois (Mr. Madigan) very expressly amends the Internal Revenue Code. The amendment is clearly an income tax provision. It adds to the Internal Revenue Code, if I understand the amendment correctly, an additional income tax credit for investment in railway energy property.

The amendment is clearly not germane to the subject matter of the bill

before us which revises the Amtrak system. It is plainly inconsistent with the germaneness rule of the House.

I am going to also say, Mr. Chairman, that this new tax credit, which would be provided by the amendment of the gentleman from Illinois (Mr. Madigan), is refundable. It would be available despite the taxpayers' lack of tax liability. This is a concept which the jurisdictional committee, the Committee on Ways and Means, should consider and review very carefully before enactment. . . .

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Chairman, the gentleman from Georgia argues that my amendment is not consistent with the purpose of the bill and, therefore, for that reason not in order. As a matter of fact, my amendment is in order because it is consistent with the fundamental purpose of this bill. It is compatible and closely allied with the method of assisting Amtrak as provided in the bill and it does not become disqualified by the application of a committee jurisdiction test.

A basic test of germaneness is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII 2911; Deschler's Procedure 28.5). In determining this purpose, one must look to the text of the bill as the principal tool in determining purpose. The fundamental purpose of both the bill and the amendment is to provide Amtrak with the ability to provide safe, reliable, and comfortable intercity rail passenger service. . . .

While the purpose to be accomplished by my amendment is through a method not specifically contemplated by the bill in its present form, the result that is desired and the method to achieve that result are compatible and closely allied. The basic method set forth in the bill to strengthen Amtrak and the method set forth in my amendment are similar. . . .

Finally, it could be argued that committee jurisdiction is an obstacle to my amendment being considered. A parliamentary note in Deschler's Procedure (28:4.16) applies to this situation:

> The fact that the subject matter of an amendment lies within the jurisdiction of a committee other than that having jurisdiction over the bill does not necessarily dictate the conclusion that the amendment is not germane; for committee jurisdiction is but one of the tests of germaneness and in ruling on the question, the Chair must take into consideration other factors.

In conclusion, Mr. Chairman, I submit that my amendment is in order because it has as its fundamental purpose a purpose which is identical to that contained in the bill; the method proposed in the amendment uses a method of achieving the end result of better Amtrak performance in a way that is closely allied to the other methods used in the bill and, finally, the purpose of the amendment and the purpose of the bill are not only identical but use such closely allied methods that any objection based on committee jurisdiction is clearly outweighed when considering the germaneness of my amendment. I ask the Chair to find the amendment to be germane to H.R. 3996 and its consideration to be in order. . . .

THE CHAIRMAN: . . . The Chair is prepared to rule.

The Chair agrees with the gentleman from Illinois (Mr. Madigan) that there are several tests of germaneness. All of the tests which may be relevant to the particular amendment must be satisfied. The fact is that committee jurisdiction is one of those tests. Since the amendment deals with taxing policy and falls within the jurisdiction of the Committee on Ways and Means, that appears to be a relevant test of germaneness in this instance.

Quoting in support of that ruling is rule XVI, section 798c of the Rules of the House of Representatives, page 497, which states:

> Committee jurisdiction is not the sole test of germaneness where the proposition to which the amendment is offered is so comprehensive (overlapping several committees' jurisdictions) as to diminish the pertinency of that test and the amendment as offered does not demonstrably affect a law within another committee's jurisdiction, or where the portion of the bill also contains language, related to the amendment, not within the jurisdiction of the committee reporting the bill—

But the text continues:

> But committee jurisdiction is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview.

In the opinion of the Chair, the amendment offered by the gentleman from Illinois does fall within the purview of the jurisdiction of the Committee on Ways and Means.

Therefore, the Chair sustains the point of order.

Omnibus Agriculture Bill Amended To Include Provisions Within Jurisdiction of Other Committees—Amendment To Make Eligibility for Price Support Programs Conditional on Compliance With Labor Standards

§ 4.67 To an omnibus agricultural bill authorizing a variety of commodity price support and payment programs within the jurisdiction of the Agriculture Committee, but amended to include provisions on subjects within the jurisdiction of other committees, such as ethanol (within the jurisdiction of the Committee on Energy and Commerce) and cargo preference (the Committees on Merchant Marine and Fisheries and Foreign Affairs), an amendment conditioning eligibility in such price support and payment programs upon the furnishing by agricultural employers of specified labor protection (normally within the jurisdiction of the Committee on Education and Labor) was held germane, as the bill had been amended to include matter beyond the exclusive jurisdiction of the Committee on Agriculture.

On Oct. 8, 1985,[7] during consideration of the Food Security Act of 1985[8] in the Committee of the Whole, the Chair, in overruling points of order against an amendment, reiterated the principle that committee jurisdiction is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committee's jurisdictions. The proceedings were as follows:

> Amendment offered by Mr. Miller of California: At the end of the bill add a new Title XXI.
>
> LIMITATION ON PARTICIPATION IN CERTAIN COMMODITY PRICE SUPPORT AND PAYMENT PROGRAMS
>
> Sec. 21. (a) Any person who violates subsection (b), (c), or (d) shall be ineligible, as to any commodity produced by that person during the crop year which follows the crop year in which such violation occurs, for any type of price support, payment or any other program or activity described in any of paragraphs 1 through 5 of section 1202(a).
>
> (b) Any agricultural employer shall provide the following to agricultural employees engaged in hand-labor operations in the field, without cost to such employees:
>
> (1) Potable drinking water. . . .
>
> (2) With respect to toilets and handwashing facilities—
>
> (A) one toilet and one handwashing facility provided for each group of 20 employees, or any fraction thereof;
>
> (B) toilet facilities with doors which can be closed and latched from the inside and constructed to ensure privacy. . . .
>
> MR. [ARLEN] STANGELAND [of Minnesota]: Mr. Chairman, I make the point of order that the Miller amendment is not germane to H.R. 2100. . . .
>
> One underlying rationale for the rule of germaneness is to preclude the consideration of subjects that were not considered by the appropriate committee when the bill was being considered by the Agricultural Committee; this is H.R. 2100. No such hearings were held by the Committee on Agriculture.
>
> The primary jurisdiction over the subject matter of the Miller amendment is with the Committee on Education and Labor. A bill similar to the Miller amendment, H.R. 3295, was cosponsored by my colleague from California on September 12, 1985, and was only referred to the Committee on Education and Labor.
>
> This amendment is an attempt to circumvent the rules of the House in the consideration of legislation by a major committee and to introduce a new subject, labor standards, into the agricultural legislation. . . .
>
> MR. [GEORGE] MILLER of California: . . . Clearly, the amendment is germane, because the amendment provides the conditions upon which the benefits under this program shall be derived by farm owners throughout

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7. 131 CONG. REC. 26548–51, 99th Cong. 1st Sess.

8. H.R. 2100.

this country. It is the conditions upon which the agricultural benefits that are put together, the billions of dollars in this program, shall be distributed.

It is also germane because it does not expand the jurisdiction of American labor law; it does not expand any existing law; it is clearly stated and it is well-ordered point of law that the OSHA Act, under which the Secretary of Labor has the ability to extend the protection for health and safety benefits is well settled that it already applies to the agricultural field.

There are a number of provisions of OSHA which are already settled in the law as provided to them, and this is one of them. This is one of them. So clearly we have the ability to take already existing law, with no extension of authority, and condition the distribution of agricultural benefits and participations in this program on that already-existing law. . . .

This amendment simply says that those standards, which have already been promulgated, which have already been settled, which have already been published, shall be one of the conditioning of the reasons for which there will be distribution of the benefits of this program. . . .

MR. [RICHARD] ARMEY [of Texas]: Mr. Chairman, the gentleman's amendment imposes field sanitation regulations on certain agricultural employers; mandates that the head of the Federal Department, Secretary of Agriculture, delegate the making of further rules and the investigation of violations to the head of another Federal Department, the Secretary of Labor, and renders violations of the regulations ineligible for the commodity price support.

First, the amendment does not meet the fundamental purpose of germaneness. The general rule is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

The basic purpose of this bill is to reauthorize the Commodity and Farm Credit Programs and the Food Stamp Programs. Regarding the commodity price supports, the bill's objective is to bring crop price supports closer to market prices in order to make U.S. crops more competitive in the world market and additionally, as a result, to continue to protect farm income in certain ways.

There is no logical connection between the fundamental purpose of this bill and the basic purpose behind the gentleman's amendment. . . .

In effect, his amendment's real purpose is to establish a new, special occupational health and safety statute applicable to a limited class of agricultural workplaces. His amendment does not seek to further the legislative end of the matter sought to be amended but, rather, he is using the vehicle of the Commodity Price Support Program to simply enact his new agricultural field sanitation law and to create a penalty device to enforce it. . . .

MR. MILLER of California: Mr. Chairman, on the point of order raised, let us talk about whether or not this amendment is fundamental to this legislation that was raised by the gentleman from Texas. The fact of the matter is, this is absolutely fundamental to this legislation. The purposes of this legislation are to determine the conditions and the basis on which the benefits under this program,

whether it is an allotment program that we just determined here or whether it is the Commodity Program, whether it is support crisis, crop insurance, loans that are made to the agricultural community, the terms and conditions upon which these benefits will be made. . . .

This bill is riddled with conditions upon which those benefits will be addressed or which those benefits will be distributed.

So this adds nothing new in terms of new law. It simply provides an additional benefit. If you read through this legislation, throughout the legislation, there are conditions placed upon the size of the farm, the wealth of the farmers, the kind of land they till, the kind of land they set aside, whether or not they participate, whether or not they ship their crops overseas on American bottoms or not. All of those are conditions because we do not allow billions and billions of dollars to be distributed without some say so. So I suggest to you that is absolutely germane, Mr. Chairman, to have this condition be made a part of this legislation and a condition under the existing programs on which the benefits are distributed. . . .

THE CHAIRMAN:[9] The Chair is prepared to rule on the points of order. . . .

The gentlemen from Minnesota and Texas make a point of order that the amendment offered by the gentleman from California [Mr. Miller] is not germane to the bill. Since the amendment is in the form of a new title to be inserted at the end of the bill, the Chair must consider the relationship of the amendment to the bill as a whole and as modified by the Committee of the Whole. The amendment would condition the availability of price support and payment programs authorized by the bill upon the furnishing by certain agricultural employers of specified labor protections. While it is true that jurisdiction over labor standards for agricultural employees is a matter within the purview of the Committee on Education and Labor and while the bill contains subject matter primarily within the jurisdiction of the Committee on Agriculture, the bill, as amended, also includes provisions within the jurisdiction of other committees including the Committee on Energy and Commerce, on ethanol, the amendment of Mr. Leach, the Committee on Merchant Marine and Fisheries which had the question of cargo preference and also the Committees on Ways and Means and Foreign Affairs. As indicated in Deschler's Procedure, chapter 28, section 4.1, committee jurisdiction over the subject of an amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions.

The Chair is also aware that regulations have been ordered to be promulgated by the Secretary of Labor pursuant to existing law to accomplish the purpose of the amendment. This situation is similar to the precedent cited in Deschler's chapter 28, section 23.6, where, to an omnibus agricultural bill, an amendment prohibiting any price support payments under the bill unless such producers are certified by the Secretary of Labor to be in compliance with applicable health and safety laws

9. David E. Bonior (Mich.).

was held to be germane. For these reasons the question that was raised by the gentlemen from Minnesota and Texas on germaneness will not be sustained.

Provisions Amending Agriculture Act—Amendment Repealing Regulations Under Occupational Safety and Health Act

§ 4.68 To an amendment in the nature of a substitute amending several Acts within the jurisdiction of the Committee on Agriculture, an amendment directing the Secretary of Agriculture to establish emergency temporary work standards for agricultural workers exposed to pesticide chemicals, notwithstanding provisions of the Occupational Safety and Health Act (a matter within the jurisdiction of the Committee on Education and Labor), and repealing certain work regulations promulgated under that Act, was held to be not germane, despite inclusion of a similar provision in the bill to which the amendment in the nature of a substitute had been offered.

On July 19, 1973,[10] during consideration of a bill to amend and extend the Agriculture Act of 1970[11] in the Committee of the Whole, it was demonstrated that the test of germaneness is the relationship between an amendment and the amendment in the nature of a substitute to which it is offered, and not between the amendment and the bill for which the amendment in the nature of a substitute has been offered:

MR. [WILMER] MIZELL [of North Carolina]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Mizell to the amendment in the nature of a substitute offered by Mr. Foley: On page 53, line 3, insert the following:

Sec. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown (such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic

10. 119 CONG. REC. 24962, 24963, 93d Cong. 1st Sess.

11. H.R. 8860.

Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment in that it is not germane because it would have the effect of amending the Occupational Safety and Health Act which is under the jurisdiction of the Education and Labor Committee. . . .

MR. MIZELL: Mr. Chairman, this language was in the committee bill that was reported to the House, and the Foley substitute eliminated this section of the bill, and so for that reason, I offer the amendment at this time, and I think it is germane to the bill since this bill does cover a number of subjects. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Chairman, the rule under which this legislation came to us precluded a point of order being raised against the Mizell amendment, the one that was contained in the original Agriculture Committee bill since this bill was a clean bill reported by the Committee on Agriculture.

What we are now dealing with is a situation in which this is an amendment to a substitute.

The subject matter covered by the amendment is clearly not germane to the jurisdiction of the Committee on Agriculture, since it is covered by the Committee on Education and Labor, and thus I believe the point of order ought to be sustained by the Chair. . . .

THE CHAIRMAN:[12] The Chair is ready to rule.

The Chair advises the gentleman from North Carolina (Mr. Mizell) that as far as the rule is concerned, it has no relevance concerning the point of order at this time. It is true that the content is the amendment as offered by the gentleman from North Carolina (Mr. Mizell) on the original bill, but the amendment before the House at this time is in the nature of a substitute.

Therefore, the Chair rules that the point of order must be sustained.

Appropriation To Supply Farm Labor—Amendment Changing Selective Training and Service Act Relating To Induction of Farm Labor

§ 4.69 To a joint resolution providing an appropriation for supplying and distributing farm labor, an amendment seeking to amend provisions of the Selective Training and Service Act relating to induction of farm labor was held to be not germane.

In the 78th Congress, during consideration of a bill[13] providing an appropriation as above described, an amendment was of-

12. William H. Natcher (Ky.).
13. H.J. Res. 96 (Committee on Appropriations).

fered[14] relating to induction of farm labor. Mr. John Taber, of New York, made the point of order against the amendment that it was not germane to the bill.

The Chairman,[15] in ruling on the point of order, stated:

> House Joint Resolution 96 provides an appropriation for supplying and distributing farm labor. The amendment . . . in effect amends the Selective Training and Service Act by providing for certain deferments. Legislation affecting the Draft Act automatically comes under the jurisdiction of the Committee on Military Affairs, not the Committee on Appropriations or the Committee on Agriculture. Therefore, in the opinion of the Chair, the amendment offered by the gentleman from South Carolina [Mr. Fulmer] is not germane to the pending resolution, and the Chair sustains the point of order.

Bill Providing for Loans to Farmers—Amendment To Provide for Loans to Commercial Fishermen

§ 4.70 To a bill providing financial relief for one class (agricultural producers), an amendment extending such relief to another class (commercial fishermen), particularly where relief to the latter class is within the jurisdiction of another committee, is not germane.

During consideration of the Agriculture Credit Act of 1978[16] in the Committee of the Whole on Apr. 24, 1978,[17] Chairman Don Fuqua, of Florida, sustained a point of order against the following amendment:

> MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer amendments, and I ask unanimous consent that the amendments be considered en bloc.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Oregon?
>
> There was no objection.
>
> The Clerk read as follows:
>
> Amendments offered by Mr. Weaver: Page 20, line 7, insert "and Commercial Fishing" after "Agricultural."
>
> Section 202:
>
> Page 20, line 11, strike out "and ranchers" and insert in lieu thereof ", ranchers, or commercial fishermen".
>
> Page 20, line 12, strike out the comma and insert "or commercial fishing".
>
> Page 20, line 14, insert "or fishing" before "cooperatives". . . .
>
> MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make the point of order the amendment is not germane to title II of the bill. I cite the title of title II which is "Emergency Agricultural Credit Adjustment Act of 1978." The purposes of title II of the

14. 89 CONG. REC. 2165, 78th Cong. 1st Sess., Mar. 17, 1943.

15. Robert L. F. Sikes (Fla.).

16. H.R. 11504.

17. 124 CONG. REC. 11080, 11081, 95th Cong. 2d Sess.

bill are to make insured and guaranteed loans to bona fide farmers and ranchers who are primarily engaged in agricultural production, and to farm cooperatives, private domestic corporations or partnerships that are primarily and directly engaged in agricultural production.

No part of the bill deals with fishing activities or the fishing industry or has to do with establishing any loans or credits or otherwise providing financial assistance to any fishermen or those engaged in any fishing activity.

The whole structure and purpose of this title are limited to provision of credit to farmers and ranchers. Therefore, Mr. Chairman, I feel that the amendment is not germane to the title. . . .

MR. WEAVER: Mr. Chairman, I would like to say the Farmers Home Administration makes fish loans presently. This is a Farmers Home Administration bill. Certainly the fishermen should be given the right to borrow under this Emergency Loan Act.

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois (Mr. Weaver) would add commercial fishermen to the category of those eligible under title II of the bill. Title II, as indicated in section 202 on page 20, establishes a new emergency agricultural credit adjustment program for bona fide farmers and ranchers who are primarily engaged and directly engaged in agricultural production and to other farming entities engaged in agricultural production. While this program would be available to farmers and ranchers, the Committee on Agriculture has chosen to treat them as a generic class of persons engaged in the production of agricultural commodities—a matter properly within the jurisdiction of that committee.

As indicated in Deschler's Procedure, in section 7.17 of chapter 28—

> To a bill providing relief for one class, an amendment to extend the relief to another class is not germane—

Especially where, as here, the class of recipients who may receive credit assistance is sought to be to commercial fishermen, matters which are within the jurisdiction of another committee of the House, as pointed out in the colloquy a few minutes ago. So, therefore, the Chair sustains the point of order against the amendment.

Provisions for Assistance to Agriculture Through Price Support Payments—Amendment To Restrict Imports in Competition With Domestic Agriculture

§ 4.71 To a proposal to provide financial assistance to domestic agriculture through a system of price support payments, an amendment seeking to protect that segment of domestic agriculture by restricting imports in competition therewith is not germane, since seeking to accomplish a purpose by an unrelated method within the jurisdiction of another committee.

During consideration of the Food and Agriculture Act of 1981[18] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings of Oct. 14, 1981,[19] were as follows:

MR. [STEVEN C.] GUNDERSON [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gunderson: Page 10, after line 13, insert the following new section (and redesignate succeeding sections accordingly):

CONGRESSIONAL FINDINGS

Sec. 107. (a) The Agricultural Act of 1949 (7 U.S.C. 1446) directs the Secretary of Agriculture to support the price of milk so as to assure the domestic production of an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet future anticipated needs.

(b) Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) provides that whenever the Secretary of Agriculture has reason to believe that imports of any product render or tend to render ineffective or materially interfere with the effective operation of a price support or similar program of the United States Department of Agriculture or that such imports reduce substantially the amount of any product processed in the United States from any agricultural commodity for which such price or similar program is in effect, he shall so advise the President who shall, if he agrees there is reason for such belief, cause an immediate investigation by the United States International Trade Commission to determine the facts. If on the basis of such investigation, the President finds the existence of such facts, he shall impose fees not to exceed 50 percent ad valorem or quantitative limitations of not less than 50 percent of the quantity entered during a representative period on such imported products. . . .

(e) Congress finds that the $300 million added cost of the Dairy Price Support Program resulting from these imports does represent material interference with the Dairy Price Support Program and that the prospect of additional future costs will further interfere with achievement of the purpose and intent of the program.

(f) To relieve such interference, the Congress further finds that limitations on the import of milk protein products, including but not limited to casein, mixtures of casein, latalbumin, and whey protein concentrates or mixtures containing 5 percent or more of these products that may enter the customs territory of the Untied States in any calendar year should be established in accordance with Section 22 of the Agriculture Adjustment Act. Such annual limitation should be no more than the average of such imports into the United States during the five-year period preceding 1981. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the Gunderson amendment.

Clause 7 of rule XVI requires that "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

18. H.R. 3603.

19. 127 CONG. REC. 23896, 23898, 23899, 97th Cong. 1st Sess.

Section 795 of the rules of the House states that "an amendment inserting an additional section should be germane to the portion of the bill to which it is offered." Section 798 states that "an amendment must relate to the subject matter under consideration."

In my judgment, neither is true in the case of this amendment. The amendment would seek to restrict the importation of casein, a different subject matter altogether than that which is in title I of this particular bill.

Mr. Chairman, the Gunderson amendment tries to establish an annual limitation on the importation of casein, and it directs certain material to be sent to the U.S. International Trade Commission and refers to section 22 of the Agricultural Adjustment Act. That agency and that particular section of the act is normally the jurisdiction of the Ways and Means Committee. Bills relating to that act and that agency are usually referred to the Ways and Means Committee.

Therefore, I submit that this amendment is not germane to title I of this bill. . . .

MR. GUNDERSON: . . . There are three basic tests of germaneness under clause 7 of rule XVI: Subject matter, fundamental purpose, and committee jurisdiction. I believe that my amendment meets all three tests.

First of all, an amendment must relate to the subject matter under consideration. Mr. Chairman, title I of H.R. 3603 deals with the milk price support program. My amendment expresses a congressional finding that casein imports materially interfere with the dairy price support program and that a quota should be established.

In a similar situation involving a bill that would make oleomargerine and other imitation dairy products subject to the laws of the State or territory into which they are transported, the Chair ruled that an amendment requiring the USDA to perform certain inspections of plants producing imitation butter was, in fact, germane. (5 Hinds' Precedents § 5919.)

Second, the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. H.R. 3603 is offered "to provide price and income protection for farmers and assure consumers an abundance of food and fiber at reasonable prices." Mr. Chairman, it is apparent from the text of my amendment that it is designed to provide income protection for farmers by discouraging an increasing number of imitation products. It is also meant to assure that consumers have an abundance of wholesome and nutritious dairy products at a reasonable price rather than having those products forced out of the market by an increasing number of imitation products.

Finally, an amendment should be within the jurisdiction of the committee reporting the bill. Mr. Chairman, my amendment deals with the effect of casein on the domestic dairy price support program. This subject certainly is within the jurisdiction of the House Committee on Agriculture, who brought H.R. 3603 to the floor, since a subcommittee of that committee held hearings on this very subject in 1979.

It is arguable that the Committee on Ways and Means should have joint jurisdiction over the subject matter of this amendment. Yet, such joint jurisdiction does not affect its germaneness.

During the consideration of the farm bill in 1977, the Chair ruled that an amendment to the food stamp portion of the farm bill dealing with collections from certain food stamp recipients was germane despite the fact that both the Agriculture Committee and the Ways and Means Committee had possible jurisdiction over the subject matter of the amendment—1977 Congressional Record, page 25252.

Mr. Chairman, the past precedents suggest that my amendment is germane. I, therefore, urge the Chair to overrule the point of order.

THE CHAIRMAN:[20] The Chair is prepared to rule.

While the Chair is unclear whether the first part of the amendment merely recites what is already contained in section 22 of the Agricultural Adjustment Act, or whether it confers direct new tariff authority, the Chair believes that any amendment suggesting what the tariff levels on imported dairy products should be raises an issue within the jurisdiction of the Committee on Ways and Means.

Indeed, the Speaker has consistently referred section 22 amendments to that committee.

The Chair would also note that title I, to which this amendment is addressed, does not impose any particular tariff limitations. The Chair might also cite for purposes of precedent 121 Congressional Record, 7667, 94th Congress, 1st session, which related to H.R. 4296, emergency price supports for the 1975 crops. In that instance, to a bill reported from the Committee on Agriculture providing price supports for milk, an amendment expressing the sense of Congress that tariffs be imposed on imported dairy products was ruled out as not germane.

Therefore, for these reasons, the Chair is required to sustain the point of order.

MR. [E] DE LA GARZA [of Texas]: Mr. Chairman, I did want to question one part of the ruling of the Chair in which the Chair states that the Committee on Ways and Means has exclusive jurisdiction over items such as casein. It has always been my understanding that the Committee on Agriculture would have joint jurisdiction with the Committee on Ways and Means, and I would not like for the ruling of the Chair to be interpreted as dispossessing the Agriculture Committee from joint jurisdiction, because the area of concern involves both committees.

THE CHAIRMAN: The Chair would say to the gentleman that the Chairman of the Committee of the Whole would not make any ruling with respect to future jurisdictional matters. That is a matter for the Speaker to determine at the appropriate time. The Chair has ruled with respect to this particular amendment and sustained the point of order.

MR. DE LA GARZA: To which I have no objection, Mr. Chairman.

Bill Establishing Agricultural Price Supports—Amendment Restricting Authority of Secretary of Commerce Over Agricultural Exports

§ 4.72 To a bill reported from the Committee on Agri-

20. Matthew F. McHugh (N.Y.).

culture establishing emergency price supports for certain agricultural commodities, an amendment restricting the authority of the Secretary of Commerce under the Export Administration Act over the export of all agricultural commodities (a matter within the jurisdiction of the Committee on International Relations and covering a more general range of commodities) was held to be not germane.

During consideration of H.R. 4296 (an emergency price support program for certain 1975 crops) in the Committee of the Whole on Mar. 20, 1975,[21] the Chair sustained a point of order against the following amendment:

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: Page 2, line 19, after the words "such crops.", insert the following: "Notwithstanding any other provision of law, neither the Secretary of Agriculture nor the Secretary of Commerce shall require or provide for the prior approval of or establish other conditions for the export sales of feed grains, wheat, soybeans, or other agricultural commodities.". . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make a point of order against the amendment as not germane to the bill. The amendment offered by the gentleman from Idaho affects the implementation of the Export Administration Act. This bill deals with amendments to the Agriculture Adjustment Act of 1949, as amended. The amendment deals with restrictions on exports and is not within the jurisdiction of the Committee on Agriculture, which has brought this bill to the floor.

The well-established precedent of the House is that the fundamental purpose of an amendment must be in consonance with the fundamental purpose of the bill. It is not in this case. The jurisdiction of the subject matter lies within the jurisdiction of the Committee on International Relations of the House. I make the point of order that the amendment is not germane and is in violation of rule XVI, clause 4. . . .

MR. SYMMS: . . . I would just say that the reason that we have had the difficulties both in the soybean market and the wheat market, which has caused the stimulation of the need for this legislation, is because of the haphazard misuse of export controls, which so much interferes with the foreign markets. Therefore, since the Secretary of Commerce has to be included, this is an appropriate amendment for the House to speak its will on this issue. . . .

THE CHAIRMAN:[22] The gentleman from Washington makes the point of order that the amendment offered by the gentleman from Idaho is not germane to the bill. The Chair is prepared to rule on this matter.

The subject of export controls administered by the Secretary of Commerce

21. 121 CONG. REC. 7651, 94th Cong. 1st Sess.

22. John Brademas (Ind.).

under the Export Administration Act is within the jurisdiction of the Committee on International Relations, and the issue of exportation of all agricultural commodities is beyond the purview of the pending bill. For these reasons, the Chair feels that the amendment is not germane to the bill and sustains the point of order.

Provisions Relating to Import Duties on Sugar—Amendment Eliminating Price Support Payments for Sugar

§ 4.73 To an amendment recommended by the Committee on Ways and Means dealing only with import duties and quotas on sugar, an amendment was held to be not germane which provided that such duties and quotas shall be the exclusive method of achieving a price objective for sugar and which by its terms eliminated all price support payments for sugar where such price supports were a matter within the jurisdiction of the Committee on Agriculture and a subject not dealt with in the Committee on Ways and Means' amendment but merely mentioned in the accompanying report.

On Oct. 6, 1978,[1] the Committee of the Whole had under consideration H.R. 13750, the Sugar Stabilization Act of 1978. An amendment recommended by the Committee on Ways and Means was reported:

THE CHAIRMAN:[2] The Clerk will now report the amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment recommended by Committee on Ways and Means: Page 7, strike out line 1 and all that follows thereafter down through line 24 on page 21 and insert the following:

TITLE II—IMPORT RESTRICTIONS ON SUGAR . . .

SEC. 202. PRICE OBJECTIVE AND AVERAGE DAILY PRICES.

(a) PRICE OBJECTIVE.—(1) The price objective for each sugar supply year beginning after September 30, 1978, is 15 cents per pound, raw value.

(b) AVERAGE DAILY PRICES.—(1) The Secretary shall determine on a continuing basis the average daily price for United States raw sugar imports and shall monitor the prices of sugar and sugar-containing products in the import trade of the United States.

(2) The Secretary shall publish the determinations made under paragraph (1) in the Federal Register on such periodic basis as he deems appropriate.

SEC. 203. SECRETARIAL RECOMMENDATIONS REGARDING SPECIAL IMPORT DUTIES BACKUP QUOTAS.

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1. 124 CONG. REC. 34108, 34109, 34111, 34112, 95th Cong. 2d Sess.

2. Dan Daniel (Va.).

(a) SPECIAL IMPORT DUTIES.—(1) Not later than 30 days before the beginning of each sugar supply year which commences after September 30, 1979, the Secretary shall—

(A) on the basis of best available information, estimate whether the average daily price for United States raw sugar imports during such sugar supply year will be below the price objective; and

(B) if the estimation under subparagraph (A) is in the affirmative, recommend to the President that he impose such special import duties on the entry of such sugar (including, but not limited to, refined sugar) and, if appropriate, such sugar-containing products as the Secretary determines to be necessary to assure that the average daily price for United States raw sugar imports will result in the price objective for such sugar supply year being achieved. . . .

(b) BACK-UP QUOTAS.—Whenever the Secretary has reason to believe that the special import duties imposed on the entry of any sugar or sugar-containing product on the basis of any recommendation made by him under subsection (a), and adjusted pursuant to subsection (c), are not resulting in the price objective for the sugar supply year being achieved, the Secretary shall recommend to the President, as a further adjustment under subsection (c), that he impose in addition to such special import duties, such quotas, on a supply year quarter basis, on the articles concerned as the Secretary determines to be necessary to achieve such price objective. . . .

(c) REVIEW AND ADJUSTMENTS OF DUTIES AND QUOTAS.—The Secretary shall review, on a supply year quarter basis, the effect of all special import duties and quotas imposed as a result of recommendations made by him under subsections (a) and (b). On the basis of such review, the Secretary may recommend to the President such adjustments with respect to the amount of any such duty or quota, or with respect to sugar or sugar-containing products to which any such duty or quota should be extended or removed, as the Secretary determines to be necessary to achieve the price objective for the sugar supply year concerned. . . .

An amendment was offered by Mr. William A. Steiger, of Wisconsin:

MR. STEIGER: Mr. Chairman, I offer an amendment to the Ways and Means Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Steiger to the Ways and Means Committee amendment: Amend the section heading and subsection (a) of section 202, as proposed by the Committee, to read as follows:

SEC. 202. PRICE OBJECTIVES AND AVERAGE DAILY PRICES.

(a) PRICE OBJECTIVE—(1) The price objectives for sugar supply years beginning after September 30, 1978, are as follows:

(A) The price objective for the 1978 sugar supply year is 15 cents per pound, raw value. . . .

(e) RESTRICTIONS ON PRICE SUPPORT AUTHORITY.—During such time as this title has force and effect, except as provided in section 310, the imposition under subsection (a) of special import duties or quotas, as the case may be, with respect to sugar or sugar containing products shall be the exclusive method of achieving the price objective, and shall be in lieu of any statutory or regulatory mechanism established for the purpose of achieving, through direct payments, the price support level for producers and processors of sugar cane and sugar beets, notwith-

standing any other provision of law. . . .

Mr. Charles A. Vanik, of Ohio, made the following point of order:

MR. VANIK: Mr. Chairman, I oppose consideration of the amendment offered by Mr. Steiger since it is clearly nongermane to the substitute and title II before us.

The annotations to the rules of the House state that "restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill," (cite: rule XVI(7), § 800, p. 539) and further, that "the burden of proof is on the proponent of an amendment to establish its germaneness," (cite: rule XVI(7), § 794, p. 528) and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order. (June 20, 1975, p.—)

Mr. Steiger's amendment effectively prohibits the operation of existing law—law which is not repealed, not amended, and not even cited in the substitute before us.

For these reasons, I ask that Mr. Steiger's amendment be ruled nongermane to this substitute and title II. . . .

MR. STEIGER: Mr. Chairman, the Members will notice that the provision has been very carefully drawn so that it is an exclusive remedy. It says, if I may direct the attention of the Chair to page 2, the following:

> During such time as this title has force and effect . . . the imposition under subsection (a) of special import duties or quotas with respect to sugar or sugar-containing products shall be the exclusive method of achieving the price objective and shall be in lieu of any statutory or regulatory mechanism established otherwise, notwithstanding any other provision of law.

I would further, Mr. Chairman, direct attention to page 15 of the committee report of the Committee on Ways and Means. The Members will note on page 15 of that committee report that the Committee on Ways and Means says the following:

> The Department of Agriculture has pledged to the Committee that direct payments will be made under the 1949 Agricultural Act to guarantee processors/producers protection against any increases in the cost of production, as calculated under the 1977 Food and Agriculture Act, above the 15-cent price objective level. It is the committee's understanding and intent that direct payments will *not* be used to bring the price of sugar up to the 15-cent level; rather, the special import duties and quotas will be used to obtain the 15-cent figure. . . .

MR. VANIK: Mr. Chairman, on my point of order I specifically complain about the item that is included in the amendment offered by the gentleman from Wisconsin (Mr. Steiger), subsection (e) on page 2. I want to read the summary of H.R. 17350 in the report of the Committee on Ways and Means on page 11 in the third paragraph, second sentence:

> The Ways and Means Committee bill very clearly does not legislate any new direct payments authority; rather, it relies on existing law and commitment from the USDA to make direct payments to processors. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Ways and Means Committee amendment very clearly does not legislate any new direct support payments authority, a matter not within that committee's jurisdiction; rather, as stated on page 11 of their report, it is intended to rely on existing law and commitment from the U.S. Department of Agriculture to make direct payments to processors/producers to reflect any changes in the cost of production of sugar above the 15-cent price objective level.

The language on page 15 of the report cited by the gentleman from Wisconsin is not in the amendment but simply states an intent, and the Chair, therefore, holds the amendment not germane to the amendment recommended by the Committee on Ways and Means and sustains the point of order.

Bill Providing Price Support for Milk—Amendment Relating to Tariffs on Imported Milk

§ 4.74 To a section of a bill reported from the Committee on Agriculture providing a one year price support for milk, an amendment expressing the sense of the Congress that the President shall impose certain tariff duties on imported dairy products was held to go beyond the purview of the pending section and to involve a matter within the jurisdiction of the Committee on Ways and Means, and was held to be not germane.

During consideration of the emergency price supports bill for 1975 crops[3] in the Committee of the Whole on Mar. 20, 1975,[4] a point of order was sustained against the following amendment:

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms:

Page 3, line 16, after the words "each quarter.", insert the following:

"It is the sense of Congress that the President shall impose at the earliest practicable date countervailing duties as proposed by the Department of Treasury on February 14, 1975, for dairy products imported into the United States from the European Economic Community.".

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make a point of order against the amendment. . . .

The amendment deals with duties which are not within the jurisdiction of the Committee on Agriculture and are within the jurisdiction of the Committee on Ways and Means, eliminating various tariffs and trade acts authorized by the Congress and, consequently, does not relate to legislation before the committee at this time, and is in violation of rule XVI, clause 7. . . .

MR. SYMMS: . . . [T]he amount of dairy products purchased by the Com-

3. H.R. 4296.

4. 121 CONG. REC. 7667, 94th Cong. 1st Sess.

modity Credit Corporation in the last fiscal year equaled exactly the amount dumped on our markets, which were subsidized by foreign dairy products dumped on our markets and undersold, in direct competition to our producers, so I think the amendment is in order.

THE CHAIRMAN:[5] The Chair is prepared to rule.

The gentleman from Washington (Mr. Foley) makes a point of order against the amendment offered by the gentleman from Idaho (Mr. Symms) on the ground that it is not germane.

The amendment relates to the subject of import restrictions and tariffs on dairy products, which subject is not within the purview of section 2 of the bill, nor is it within the jurisdiction of the Committee on Agriculture. The amendment is, therefore, not germane, and the Chairman sustains the point of order.

Provisions Directing Commodity Credit Corporation To Sell Surplus Dry Milk—Amendment Relating to Labeling Under Federal Food, Drug and Cosmetic Act

§ 4.75 To an amendment directing the Commodity Credit Corporation to sell surplus stocks of dry milk to domestic companies for the manufacture of casein (a matter within the jurisdiction of the Committee on Agriculture), an amendment to that amendment deeming as misbranded for purposes of the Federal Food, Drug and Cosmetic Act any food substitutes labeled as "cheese" (a matter within the jurisdiction of the Committee on Energy and Commerce), was held to be not germane.

During consideration of the Food Security Act (H.R. 2100) in the Committee of the Whole on Sept. 26, 1985,[6] the Chair sustained a point of order against an amendment to the following amendment:

MR. [SHERWOOD L.] BOEHLERT [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Boehlert: Page 37, after line 9, insert the following:

DOMESTIC CASEIN INDUSTRY

Sec. 215. (a) The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than one million pounds annually to individuals or entities on a bid basis.

(b) The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law in order to promote the strengthening of the domestic casein industry.

(c) The Commodity Credit Corporation shall take appropriate action to assure that the nonfat dry milk sold by the Corporation under this section shall be used only for the manufacture of casein.

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5. John Brademas (Ind.).

6. 131 CONG. REC. 25023–25, 99th Cong. 1st Sess.

Redesignate succeeding sections in the subtitle accordingly. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Boehlert: At the end of section 211, after the word "date", insert the following new section:

SEC. 243. MISBRANDED FOOD SUBSTITUTES FOR CHEESE.

For purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), any food which is an imitation of cheese and which does not comply with any standard of identity in effect under section 401 of such Act for any cheese shall be deemed to be misbranded if its label contains the word "cheese". . . .

MR. [E] DE LA GARZA [of Texas]: . . . Mr. Chairman, this amendment addresses the Food and Drug Act, which is under the jurisdiction of the Committee on Energy and Commerce, and it therefore would not be germane to this legislation. We have no item in the bill that this amendment would be germane to. . . .

MR. JEFFORDS: Mr. Chairman, I would like to respond by saying it is difficult for me to see how anything that talks about cheese could not be relevant to the dairy provisions of the farm bill.

I recognize that there may be some others with concurrent jurisdiction, but certainly the protection of the cheese industry and the ability of our dairy farmers to ensure that imitation products are not sold under the guise of cheese certainly ought to be within the province of this committee. . . .

THE CHAIRMAN:[7] The Chair is prepared to rule.

The Chair will rule that No. 1, the amendment offered by the gentleman from Vermont [Mr. Jeffords] is to the Boehlert amendment and not to the farm bill in general, and the Boehlert amendment deals with Commodity Credit Corporation subsidies for dry milk; and so it is not germane to that amendment.

Second, the point of order raised by the gentleman from Texas [Mr. de la Garza] is correct in regards to the committee jurisdiction argument.

So the Chair will rule that the amendment is not germane to the Boehlert amendment.

Bill Amending Law Relating to Registration of Pesticides—Amendment Barring Award of Attorneys' Fees in Certain Civil Actions Brought Under the Law

§ 4.76 To a title of a bill reported from the Committee on Agriculture amending an existing law relating to registration of pesticides, an amendment providing that notwithstanding any other law, no attorneys' fees shall be awarded in certain civil actions brought under the law being amended was held not germane, as indirectly amending another law within the jurisdiction of another

7. David E. Bonior (Mich.).

committee governing fees in federal civil actions generally, where nothing in the pending title amended laws on that subject.

On Sept. 19, 1986,[8] during consideration of the Federal Insecticide, Fungicide and Rodenticide Act amendments of 1986[9] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above, demonstrating that an amendment must be germane to the pending title of the bill to which it is offered.

In lieu of amendments recommended by the Committee on Agriculture printed in the bill, the text of H.R. 5440 was being considered by titles as an original bill for the purpose of amendment, and Title I of H.R. 5440 was open for amendment at any point. Title I stated in part:[10]

SEC. 106. ADMINISTRATOR'S AUTHORITY TO REQUIRE DATA ON INERT INGREDIENTS. . . .

(b) PRIORITY LIST AND DATA REQUIREMENTS.—Section 3 (7 U.S.C. 136a) is amended by adding at the end thereof the following new subsection:

"(g) PRIORITY LIST AND DATA REQUIREMENTS FOR INERT INGREDIENTS.—

"(1) ESTABLISHMENT OF LIST.—Subject to paragraph (4), the Administrator shall establish a priority list of inert ingredients consisting of—. . .

"(B) inert ingredients (i) for which additional data are reasonably necessary to assess the risk that the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment, (ii) that are similar in molecular structure to a chemical that is oncogenic, mutagenic, or teratogenic or causes another similarly significant adverse effect, and (iii) that have significant use in pesticides or to which there is significant exposure from pesticides. . . .

(2) "PUBLICATION OF LIST.—Not later than 90 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall publish the priority list required under paragraph (1). The Administrator shall publish revisions to such list at least annually. . . .

"(5) ADDITIONAL DATA.—

"(A) The Administrator shall determine whether additional data are required for an inert ingredient in a registered pesticide not later than 1 year after the inert ingredient is placed on the priority list under paragraph (1). The Administrator shall require submission of such data from each registrant of such pesticide under this Act or from manufacturers and processors of the inert ingredient under the Toxic Substances Control Act. Such data shall be submitted within a reasonable time but not later than 4 years after the date of the request. The Administrator may extend the period for the submission of data by not more than 2

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8. 132 CONG. REC. 24728–30, 99th Cong. 2d Sess.

9. H.R. 2482.

10. 132 CONG. REC. 24149, 99th Cong. 2d Sess., Sept. 18, 1986.

years if extraordinary circumstances beyond the control of the registrant or producer prevent the submission of the necessary data.

"(B) Data requirements imposed under subparagraph (A) or a decision not to require data for an inert ingredient shall be subject to judicial review under section 16(b).

An amendment was offered, as follows:

MR. [RON] MARLENEE [of Montana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Marlenee: Page 43, line 7, insert after "section 16(b)." the following new sentence:

"Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines.". . .

MR. [HOWARD L.] BERMAN [of California]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Montana is in violation of clause 7 of House rule XVI which prohibits the consideration of amendments on a subject different from that under consideration. Mr. Chairman, the amendment offered by the gentleman from Montana carves out an exemption from the Equal Access to Justice Act, which authorizes the awarding of legal fees in certain cases brought against the Federal Government. The bill before us, H.R. 2482, amends the Federal Insecticide, Fungicide, and Rodenticide Act which concerns itself solely with the regulation of pesticides. Neither FIFRA nor this bill address the issue of the awarding of legal fees. Indeed, the amendment offered by the gentleman says that "Notwithstanding any other provision of law," indicating clearly that he intends to reach outside the scope of this bill and the law which it amends. The amendment goes to a totally different and nongermane matter to the business before the committee, and on this basis I ask that the point of order be sustained. . . .

MR. MARLENEE: . . . Mr. Chairman, my amendment, I submit, is germane for the following reasons:

First, the title of the bill it is for "other purposes" than amending FIFRA.

Second, other examples of enactments amended by this bill or by the underlying FIFRA Act are: The Federal Hazardous Substances Act; the Poison Prevention Packaging Act; the Federal Food Drug and Cosmetics Act; and title 5 of the United States Code.

Third, the section and the bill reauthorize programs and funding for the pesticide programs. It also adds a new program (reregistration—section 3 A of FIFRA) that is amended by my amendment. Both the section and the bill relate to fees and funding for the reregistration program. Some of that funding for the reregistration program will come from fees assessed against registrants (see page 42 of the bill) and some will come from appropriated funds (section 816 of the bill).

My amendment would state how some of those funds could not be utilized and I submit does not violate the rules of the House on germaneness.

Fourth, my amendment is narrowly drawn and applies only to "fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines.". . .

Fifth, this bill, other than the section I am amending, contains provisions relating to the actions against the United States for just compensation . . . .

The bill also contains provisions relating to the false statement statute (18 U.S.C. 1001) and prosecutions thereunder.

Sixth, section 9 of the FIFRA Act gives the EPA Administrator authority to obtain and execute warrants and section 12 authorizes the Administrator to make certain certification to the U.S. Attorney General. Section 701 of the act discusses patent term extension for registrations of pesticides. . . .

Seventh, I understand, although I have not seen the basis of Mr. Berman's point of order, that it asserts the nongermaneness of my amendment based on the fact that it amends the Equal Access to Justice Act.

However, section 2412 (b) and (d) of title 28 (Equal Access to Justice Act) specifically provide with respect to fees and expenses of attorneys that those subsections only apply "Unless expressly prohibited by statute," (subsection (b)) and "Except as otherwise specifically provided by statute," (subsection (d)).

It is submitted that this bill which reauthorizes the FIFRA programs and funding can be utilized to effect the exception provided for in the Equal Access to Justice Act. It is therefore submitted that my amendment is germane to this bill.

THE CHAIRMAN:[11] The Chair is prepared to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Montana (Mr. Marlenee) is not germane to the text of title I of H.R. 5440. The amendment waives all provisions of law which would otherwise permit the awarding of attorneys fees in FIFRA related court cases.

The Chair would first note that the gentleman's argument reaches into and relates to titles of the bill which have not yet been reached in the amendment process.

The law being waived, moreover, is not the FIFRA law, but is the Equal Access to Justice Act, a law within the jurisdiction of another committee and a law not amended or referenced in the pending title of the bill. Nothing in title I amends existing law pertaining to judicial review and procedures.

The gentleman from Montana has made the point correctly that the Equal Access of Justice Act says that there can be exceptions specified by other statutes.

However, that does not remove jurisdiction from the Judiciary Committee or necessarily change the test of germaneness of amendments to other laws. And therefore, in the opinion of the Chair, the amendment addresses an issue within the jurisdiction of another committee and is not germane to the pending title.

The Chair therefore sustains the point of order.

Bill Authorizing Secretary of Agriculture To Employ Grain Inspectors—Amendment Permitting Employees to Credit Private Service for Civil Service Retirement Purposes

§ 4.77 Committee jurisdiction over the subject of an

11. Matthew F. McHugh (N.Y.).

amendment is not the exclusive test of germaneness where the portion of the bill being amended contains language not within the jurisdiction of the committee reporting the bill, and the amendment relates to such language.

On Apr. 2, 1976,[12] the Committee of the Whole had under consideration a section of a bill[13] reported from the Committee on Agriculture authorizing the Secretary of Agriculture to employ official grain inspectors without regard to civil service appointment statutes upon his finding of their good moral character and professional competence. An amendment was offered permitting those employees to credit their prior private service as grain inspectors to their Civil Service retirement. The amendment was held germane as merely stating a further condition upon their status as federal employees.

The Clerk read as follows: . . .

(c) By amending subsection (d) and adding new subsections (e) . . . to read as follows:

"(d) Persons employed by an official inspection agency (including persons employed by a State agency under a delegation of authority pursuant to section 7(e), persons performing official inspection functions under contract with the Department of Agriculture, and persons employed by a State or local agency or other person conducting functions relating to weighing under section 7A shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided, however,* That such persons shall be considered in the performance of any official inspection functions or any functions relating to weighing as prescribed by this Act or by the rules and regulations of the Secretary, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, United States Code, to such persons . . .

"(e) The Secretary of Agriculture may hire (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of this Act) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or weighing functions any individual who, on the date of enactment of this Act, was performing similar functions: *Provided*, That the Secretary of Agriculture determines that such individuals are of good moral character and are technically and professionally qualified for the duties to which they will be assigned."

MRS. [LINDY] BOGGS [of Louisiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Boggs: Page 19, line 11, insert the following immediately after the first period: "Any individual who is hired by the

12. 122 CONG. REC. 9240–42, 9253, 9254, 94th Cong. 2d Sess.

13. H.R. 12572, the Grain Standards Act of 1976.

> Secretary pursuant to this subsection shall, for purposes of the annuity computed under section 8339 of title 5, United States Code, be credited (subject to the provisions of sections 8334(c) and 8339(i) of such title) with any service performed by such individual before the date of enactment of this subsection in connection with this Act.". . .

THE CHAIRMAN:[14] Does the gentleman from Illinois (Mr. Michel) insist upon his point of order?

MR. [ROBERT H.] MICHEL [of Illinois]: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. MICHEL: Mr. Chairman, I do so because, in my opinion, the amendment is not germane to this bill, which amends the U.S. Grain Standards Act, and says, on page 18:

> The Secretary of Agriculture may hire (without regard to the provisions of title V, United States Code, governing appointments in the competitive service) . . . any individual who is licensed to perform functions on the date of enactment.

Then it is provided further that the individuals be of good moral character and that they be professionally qualified, et cetera.

The amendment of the gentlewoman from Louisiana (Mrs. Boggs), however, seeks to amend title 5, section 8339, 8334(c), and 8339(i).

Mr. Chairman, an amendment to another statute does not make it germane to this bill, and I would cite as my authority on that, the Record of August 17, 1972, page 28913, as follows:

> Under rule 16, to a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price-control authority for all commodities under an Act reported from the Committee on Banking and Currency is not germane. July 19, 1973, etc.

If the amendment of the gentlewoman from Louisiana were in the form of a bill, it would undoubtedly be referred to the Committee on Post Office and Civil Service, because it has to do with the retirement benefits of employees that would be selected by the section. . . .

MRS. BOGGS: . . . The language of section 6(e), I feel, is sufficiently broad and certainly the committee report language is sufficiently broad to insist that the workers who are of good moral character, as the bill says, could be employed without regard to various Civil Service regulations in order to quickly be able to put into effect a service that will be highly necessary for the Government if we indeed are going to take over the work of the private agencies and the State agencies.

Mr. Chairman, the language is sufficiently broad where it goes on to suggest that positions of at least comparable responsibility and rank to those enjoyed in the private and State systems be given to them and that in setting their pay within the appropriate grade, to the extent possible, cognizance should be taken in order to take into consideration these rank and longevity benefits, so that the employees had, under the system where employed, the benefits that they had under longevity. The benefit system under which they were employed certainly included an annuity provision, and I think that this language that

14. Phil M. Landrum (Ga.).

this amendment extends to the bill simply points that out.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has read the language on the page of the committee report and section 6(e) of the bill already deals with the status of the Civil Service requirements with respect to appointments of Federal inspectors. The amendment does not directly amend title 5 U.S. Code, and it would further affect the status of those Federal employees under the Civil Service law by permitting them to credit the prior private service to their Civil Service retirement if they become Federal employees. The amendment imposes a further condition upon their hiring.

Therefore, the Chair rules that as far as germaneness is concerned, the amendment is germane to section 6(e) of the bill, and overrules the point of order.

Bill Relating to Administration of Food Stamp Program—Amendment Providing for Recovery of Benefits From Persons Having Specified Income

§ 4.78 To a title of a bill reported from the Committee on Agriculture providing for benefits under, and administration of, the food stamp program, an amendment which provided for recovery of benefits from persons whose income exceeded specified levels was held to be germane, even though it required the Secretary of the Treasury and, impliedly, the Internal Revenue Service to collect any liability imposed by the amendment's provisions.

On July 27, 1977,[15] during consideration of H.R. 7171 (the Agriculture Act of 1977), in ruling on a question of germaneness, the Chair confined his analysis to the text of the amendment and was not guided by conjecture as to other legislation or administrative actions which might have—but were not required to—result from the amendment.

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Foley: In title XII, page 28, insert after line 8 the following new section:

"RECOVERY OF BENEFITS WHERE INDIVIDUAL'S ADJUSTED GROSS INCOME FOR YEAR EXCEEDS TWICE POVERTY LEVEL

"Sec. 1210. (a)(1) If—

"(A) any individual receives food stamps during any calendar year, and

"(B) such individual's adjusted gross income for such calendar year exceeds the exempt amount,

then such individual shall be liable to pay the United States the amount

15. 123 CONG. REC. 25249, 25252, 95th Cong. 1st Sess.

determined under subsection (b) with respect to such individual for such calendar year. Such amount shall be due and payable on April 15 of the succeeding calendar year and shall be collected in accordance with the procedures prescribed pursuant to subsection (g). . . .

"(g) The Secretary of the Treasury shall collect any liability imposed by this section in accordance with regulations prescribed by him (after consultation with the Secretary).

"(h) Nothing in this section shall be construed to affect in any (manner) the application of any provision of the Internal Revenue Code of 1954.". . .

MR. [FORTNEY H.] STARK [of California]: Mr. Chairman, I reserve a point of order. I would like to engage the author of the amendment in colloquy. . . .

Mr. Chairman, I would like to ask the distinguished gentleman from Vermont who or what branch of Government the gentleman feels would collect this money from the people?

MR. JEFFORDS: Under the amendment, the Department of the Treasury would be required to collect the money.

MR. STARK: It would be the Treasury Department and in no way did the gentleman intend that the Internal Revenue Service participate in any of the collection or in collecting the forms or collecting revenue?

MR. JEFFORDS: No, on the contrary, it is my understanding and belief that the Internal Revenue Service would be charged with and do the collecting. . . .

MR. STARK: Mr. Chairman, I make a point of order that the jurisdiction of the Internal Revenue Service lies wholly within the jurisdiction of the Committee on Ways and Means.

This amendment, as the gentleman has stated it, would be counting on the Internal Revenue Service to perform the functions as put down under this amendment. The amendment would not be in order and would not be within the jurisdiction of this committee. . . .

MR. JEFFORDS: . . . As I understand the rules here, I can ask for an amendment that can be proposed, as can anybody, to the collection. We could make the State Department or anyone else do the collection, but we cannot do what I have not done, and very specifically have not done in this amendment, which is to change any statute of the way it is done, which is under the jurisdiction of the Committee on Ways and Means. If I am wrong on this, there are so many places in this bill where the same thing is done that I do not know why a number of Members have not raised points of order.

We have asked the Postal Service to do something; we have asked the social security office to do things; we have mandated different agencies all over the place. We do not interfere with any statutes which are under committee jurisdiction of other committees. I have not done so here. The question is, do we change any statute which is under the jurisdiction of the Ways and Means Committee, and we do not. They are the guardian over those statutes, but they are not the guardian over any agency which happens to be involved with those statutes.

MR. STARK: Mr. Chairman, I think it is quite clear that the gentleman, in terms of both the committee report and in his response to questions here, in his statement on the floor that this amendment, although it really says

that the Secretary of the Treasury shall collect any liability, clearly the intention is that the Internal Revenue Service shall collect W–2 forms, match them against income figures which are now under the law not to be given even to the Secretary of Treasury, but are for collecting income tax and Internal Revenue matters.

Clearly, the intent of the amendment is to direct the Internal Revenue Service to participate in that. The jurisdiction of the Internal Revenue Service and all matters pertaining thereto is under the Committee on Ways and Means. I would ask that this amendment be ruled out of order on that basis.

THE CHAIRMAN:[16] The Chair is ready to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Vermont (Mr. Jeffords) is not germane to the food stamp title of the pending bill. The thrust of the gentleman's point of order is that the collection procedure for overpayments of food stamp benefits to persons above the poverty level involves responsibilities of the Treasury Department, and in effect mandates the establishment of regulations which would involve the disclosure of tax returns and tax information and utilization of the Internal Revenue Service—all matters within the jurisdiction of the Committee on Ways and Means.

The Chair notes that the amendment does contain the provision that "nothing in this section shall be construed to affect in any manner the application of any provision of the Internal Revenue Code of 1954," and it seems to the Chair to follow that, under the explicit provisions of the amendment. Secretary of the Treasury would therefore have to establish an independent collection procedure separate and apart from the mandated use of the Internal Revenue Service. The Chair does not have to judge the germaneness of the amendment by contemplating possible future legislative actions of the Congress not mandated by the amendment.

In the opinion of the Chair, the authority of the Secretary of the Treasury under the rules of the House as collector of overpayments of any sort is not subject explicitly and exclusively within the jurisdiction of the Committee on Ways and Means under rule X, and even if this were true, committee jurisdiction is not an exclusive test of germaneness where, as here, the basic thrust of the amendment is to modify the food stamp program-a matter now before the Committee of the Whole.

The Chair overrules the point of order.

Parliamentarian's Note: Had the amendment altered the Internal Revenue Code or otherwise required the use of the Internal Revenue Service, in conjunction with the collection of federal income taxes, in recovering the value of benefits, the amendment would not have been germane. The Chair was persuaded that the Department of the Treasury performs a variety of functions, including payments and collections,

16. Frank E. Evans (Colo.).

under laws and policies not within the jurisdiction of the Committee on Ways and Means. As indicated in the Chair's ruling, the amendment disavowed any intent to affect any provision of the Internal Revenue Code.

Bill Making Appropriations for Relief—Amendment Allotting Appropriations for Investigation of Effects of Relief

§ 4.79 To a bill making appropriations for relief and work relief, an amendment proposing that part of the appropriation be allotted to a nonpartisan commission to be appointed for the purpose of investigating certain effects of relief was held to be not germane.

In the 76th Congress, during consideration of a bill[17] comprising relief appropriations, the following amendment was offered:[18]

> Amendment offered by Mr. Edwin A. Hall [of New York]: On page 33, after line 7, insert a new section, as follows:
>
> Sec. 37. One million dollars of the sums herein provided shall be allotted to a nonpartisan commission. . . . The Commission shall be . . . charged with a laboratory investigation of relief with reference to its causes and its effects upon the economic and sociological structure of the United States and particularly with reference to its effects on the recipients of relief.

Mr. Clarence A. Cannon, of Missouri, raised the point of order that the amendment was not germane to the bill.[19] The Chairman,[20] in ruling on the point of order, stated:

> Inasmuch as the Committee on Appropriations does not have jurisdiction of the matter contained in the amendment offered by the gentleman from New York, the Chair sustains the point of order.

Bill Creating Consumer Protection Agency—Amendment Conferring on Congressional Committees Authority To Direct Agency To Intervene in Judicial or Administrative Proceedings

§ 4.80 To a bill creating an independent agency in the executive branch to protect consumer interests, an amendment in the form of a new section conferring upon Congressional committees with oversight responsibility for consumer interests the authority to direct that agen-

17. H.J. Res. 544 (Committee on Appropriations).

18. 86 CONG. REC. 6761, 76th Cong. 3d Sess., May 23, 1940.

19. *Id.* at p. 6762.

20. Fritz G. Lanham (Tex.).

cy to intervene in administrative or judicial proceedings was held not merely to reserve to Congress a disapproval authority over the agency but to confer new power on Congressional committees, and was ruled out as beyond the jurisdiction of the Committee on Government Operations and beyond the scope of the bill.

The proceedings of Nov. 6, 1975, relating to H.R. 7575, the Consumer Protection Act of 1975, are discussed in § 14.6, infra.

Bill To Facilitate Settlement of Strikes—Amendment Requiring Unions To Incorporate and To File Reports

§ 4.81 To a bill proposed to facilitate the settlement of labor disputes or strikes, an amendment to require labor unions to become corporate bodies and file certain reports, including financial statements, with the Recorder of Deeds was held germane.

In the 79th Congress, during consideration of a bill[1] relating to settlement of labor disputes, an amendment was offered:[2]

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, I offer an amendment to the Case bill.

The Clerk read as follows:

Amendment offered by Mr. Andrews of New York to the Case amendment: Page 12, after line 13, insert a new section to be known as 12(a) entitled "Incorporation of and Annual Financial Reports by Labor Organizations":

"Paragraph 1. Every labor organization in which the employees are employed by an employer engaged in interstate commerce within the meaning of the Wagner Act shall become a body corporate as provided in this act. The officers of each labor organization shall make, sign, and acknowledge, before any officer competent to take acknowledgment of deeds, and file in the office of the Recorder of Deeds of the District of Columbia, to be recorded by him, a certificate in writing, in which shall be stated—

"First. The name or title by which such labor organization is to be known.

"Second. The term for which it is organized, which may be perpetual.

"Third. The purposes and objects of the organization.

"Fourth. The names and addresses of its officers for the first year of its corporate existence.

"Par. 2. When the certificate provided for in paragraph 1 has been filed, the labor organization shall be a body corporate, and may, in its corporate name, sue and be sued, grant and receive property, real, personal, and mixed, and use such property, and the income thereof for the objects of the corporation. Members of the corporation shall not be personally liable for the acts, debts, or obligations of the corporation.

"Par. 3. A labor organization incorporated under this act shall have the power to make and establish such

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1. H.R. 4908 (Committee on Labor).

2. 92 CONG. REC. 851, 79th Cong. 2d Sess., Feb. 4, 1946.

constitution, rules, and bylaws (including rules and bylaws defining the duties and powers of its officers and the time and manner of their election) as its members may deem proper for carrying out its lawful objects. . . .

A point of order was raised against the amendment, as follows: (3)

MR. [JENNINGS] RANDOLPH [of West Virginia]: I make a point of order that the amendment, which I understand is offered as a new section to the Case bill, is not in order. I believe the subject matter goes far afield from the matter under consideration here.

The Chairman,(4) in ruling on the point of order, stated:

When the committee bill was presented to the House, it was under a rule making the Case bill in order. It was previously stated during the debate on the rule, that the purpose was to open up the entire field with reference to labor legislation. The House voted affirmatively for the special rule bringing in the bill.

This is an amendment to the Case amendment. In the Case amendment there are provisions for financial and legal liability of labor unions and employers, and the amendment of the gentleman from New York, as offered, is merely a means of further bringing about the legal responsibility of the union.

The Chair therefore believes it is in order, and overrules the point of order.(5)

3. *Id.* at p. 852.

4. Emmet O'Neal (Ky.).

5. *Parliamentarian's Note:* It is perhaps arguable whether a provision relating narrowly to incorporation, or the processes pertaining to incorporation, would lie within the jurisdiction of the Committee on the Judiciary. The Chair in his ruling took a more liberal view, emphasizing the purposes of the amendment as relating to those of the bill.

Bill To Facilitate Settlement of Strikes—Amendment Relating To Taxation and Disposition of Revenues

§ 4.82 To a bill having for its purpose the settlement of labor disputes, an amendment relating to taxation and the disposition of revenues was held to be not germane.

In the 79th Congress, a bill (6) was under consideration relating to settlement of labor disputes. The following amendment was offered to an amendment in the nature of a substitute for the bill: (7)

Amendment offered by Mr. [Cleveland M.] Bailey, of West Virginia, to the Case substitute for H.R. 4908: "On page 3, line 18, after the word 'arbitration', strike out the period, insert a comma, and insert 'And in this connection it is the declared intent of the Congress that all subsidies now being paid out of the United States Treasury in the form of tax refunds, tax rebates, and "carry back" payments to individuals, companies, or corporations, be

6. H.R. 4908 (Committee on Labor).

7. 92 CONG. REC. 854, 79th Cong. 2d Sess., Feb. 4, 1946.

suspended for the duration of any strike or strikes now existing or that may occur during the calendar year that lead to industrial unrest, delay reconversion, and otherwise impair our national economy.'"

The following proceedings then took place[8] with respect to a point of order raised against the amendment:

MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, the amendment is clearly out of order. It is not germane to the bill. There is nothing in this bill that has anything to do with the carry-back. . . .

This is a matter for the Committee on Ways and Means, Mr. Chairman. . . .

MR. BAILEY: I am afraid of that. . . .

The Chairman [Emmet O'Neal, of Kentucky] held:

In the opinion of the Chair, the amendment offered by the gentleman from West Virginia [Mr. Bailey] deals with both taxation and the disposition of taxes, and is not germane to the pending amendment.

The point of order is sustained.

Bill Amending Fair Labor Standards Act To Mitigate Effects of Imports on Labor Market—Amendment Modifying Tariff Act With Respect to Imports From Communist Nations

§ 4.83 To a bill amending two sections of the Fair Labor Standards Act for purposes of mitigating certain effects of imports on the domestic labor market, an amendment modifying provisions of the Tariff Act of 1930 with respect to the importation of merchandise from communist nations was held to be not germane.

On Sept. 28, 1967, the Fair Labor Standards Foreign Trade Act of 1967[9] was under consideration, which stated in part:[10]

Sec. 2. (a) Subsection (a) of section 2 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. sec. 202), is amended to read as follows:

"(a) The Congress finds that the existence in industries engaged . . . in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers and the unregulated importation of goods produced by industries in foreign nations under such conditions (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States. . . ."

(b) Section 2 of such Act is further amended by adding the following new subsection:

"(c) It is further declared to be the policy of this Act . . . to provide for

8. *Id.* at pp. 854, 855.

9. H.R. 478 (Committee on Education and Labor).

10. See 113 CONG. REC. 27212, 90th Cong. 1st Sess.

the regulation of imports of goods in such manner as will . . . eliminate any serious . . . threat of impairment to the health, efficiency, and general well-being of any group of workers in the United States and the economic welfare of the communities in which they are employed from conditions above referred to in the industries providing them employment in which increased imports are a substantially contributing factor. . . ."

The following amendment was offered to the bill:[11]

Amendment offered by Mr. [Paul] Findley [of Illinois]: On page 4, immediately after line 18, insert the following:

Sec. 4. (a) Section 313(h) of the Tariff Act of 1930 (19 U.S.C. 1313(h)) is amended by inserting before the period at the end thereof the following: ", except that, if the imported merchandise is imported directly or indirectly from a country or area which is dominated or controlled by Communism, no drawback shall be allowed under subsection (a) or (b)."

A point of order was raised against the amendment, as follows:

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Chairman, the amendment is an amendment to the Tariff Act of 1930, as amended.

This legislation represents an amendment to the Fair Labor Standards Act. The amendment, in my opinion, is not germane, since the provisions of the Tariff Act come under the jurisdiction of the Committee on Ways and Means and not under the jurisdiction of the committee or subcommittee which it is my honor to chair.

The bill amending the Fair Labor Standards Act had been reported from the Committee on Education and Labor. As indicated by Mr. Dent, the amendment proposing to modify the Tariff Act of 1930 was a matter within the jurisdiction of the Committee on Ways and Means. The Chairman,[12] sustained the point of order.

Bill Providing for Payment of Wages on Highway Projects at Prevailing Rates as Determined by Secretary of Labor—Amendment Making Such Determination a Subject of Administrative Hearings

§ 4.84 To that section of a bill providing for payment of wages at prevailing rates, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, to employees on federal aid highway construction projects, an amendment making such determination a subject of administrative hearings and judicial review was held to be not germane.

11. *Id.* at p. 27214.

12. Jack B. Brooks (Tex.).

In the 84th Congress, during consideration of the Federal Highway and Highway Revenue Acts of 1956,[13] the following amendment was offered by Mr. Bruce R. Alger, of Texas:[14]

> On page 25, immediately after line 9, insert:
>
> (b) Judicial review under Davis-Bacon Act: Section 7 of the Davis-Bacon Act (40 U.S.C., sec. 276a–6)) is amended to read as follows:
>
> Sec. 7. (a) Notwithstanding any provision of section 4 of the Administrative Procedure Act, such act shall be applicable in the administration of section 2 and the first section of this act.
>
> (b) All wage determinations under the first section of this act shall be made on the record after opportunity for a hearing. . . .
>
> (c) Notwithstanding the inclusion of any stipulations required by any provision of this act, any interested person shall have the right of judicial review of any legal question which might otherwise be raised, including, but not limited to, wage determinations and the territorial applicability of determinations of the Secretary of Labor.

A point of order was raised against the amendment, as follows:

> MR. [THADDEUS M.] MACHROWICZ [of Michigan]: Mr. Chairman, as I read the amendment, it attempts to make new provisions in the Davis-Bacon Act, an act which is not germane to the bill which we are now considering.

It was further stated, by Mr. John A. Blatnik, of Minnesota, that ". . . this amendment is completely out of order. It is an attempt to amend basic labor legislation which originated in the Labor Committee."

The Chairman,[15] in ruling on the point of order, stated:

> The effect of the amendment would be to amend two acts of the Congress, one reported by the Committee on Education and Labor, and the other the Administrative Procedure Act which, it so happens, I was responsible for. The Chair feels that the orderly, proper, and legal way to amend this act is by an amendment to the act itself and not indirectly by amending collaterally.
>
> The Chair sustains the point of order.

Another amendment was then offered by Mr. Bruce R. Alger, of Texas, as follows:

> Amendment offered by Mr. Alger: . . . On page 25, immediately after line 9, insert:
>
> (b) Procedure for wage determinations:
>
> (1) Applicability of Administrative Procedure Act: Notwithstanding any provision of section 4 of the Administrative Procedure Act, such Act shall be applicable to the wage determinations by the Secretary of Labor under subsection (a) of this section.

13. H.R. 10660 (Committee on Public Works).

14. 102 CONG. REC. 7206, 84th Cong. 2d Sess., Apr. 27, 1956.

15. Francis E. Walter (Pa.).

15. Francis E. Walter (Pa.).

(2) Hearings and judicial review: All wage determinations under subsection (a) of this section shall be made on the record after an opportunity for a hearing. . . .

(3) Questions reviewable: Notwithstanding the inclusion of any stipulations required by the Secretary of Commerce in any contract subject to this section, any interested person shall have the right of judicial review of any legal question which might otherwise be raised, including . . . wage determinations. . . .

Mr. Blatnik raised the following point of order:

The amendment is out of order on the ground that it applies to basic legislation which originated in another committee of the House, the House Committee on Education and Labor. . . .

In defending the amendment, the proponent, Mr. Alger, stated:

Mr. Chairman, this amendment is quite different from the preceding amendment in that the preceding amendment would have amended the entire Davis-Bacon Act. This amendment is directed solely at this bill and the wages paid on the Interstate System, which is all the Davis-Bacon provision is to apply to.

The Chairman ruled as follows:

The Chair is of the same opinion with reference to this proposed amendment as it was with respect to the last one, and therefore the point of order is sustained.

Proposal To Suspend Wage and Employment Laws During Emergency—Amendment Providing for Study of Effects of Laws on War Production

§ 4.85 To an amendment proposing the suspension of certain laws during the national emergency, an amendment offered as a substitute providing for an investigation by the Committee on the Judiciary of all laws now relating to wages and other conditions of employment to determine the effects of such laws on war production was held to be not germane.

In the 77th Congress, during consideration of the Second War Powers Bill,[16] an amendment was pending, as follows:

Amendment offered by Mr. [Howard W.] Smith of Virginia: On page 12, after line 11, insert a new title, as follows:

"TITLE IV–A

"That during the national emergency declared to exist by the President on May 27, 1941, the following provisions of law, as amended, are suspended, insofar as they—

"(a) Prescribe the maximum hours, days, or weeks of labor in any specified period of time;

16. S. 2208 (Committee on the Judiciary).

"(b) Require compensation at a rate higher than the usual rate at which an employee is employed (1) for labor in excess of a specified number of hours, days, or weeks in any specified period of time, or (2) for labor on Sundays, holidays, or during the night; or

"(c) Require stipulations in contracts which prescribe maximum hours of labor or require compensation at a rate higher than the usual rate at which an employee is employed for labor in excess of a specified number of hours, days, or weeks in any specified period of time, or for labor on Sundays, holidays, or during the night—

"(1) 'An act to expedite the strengthening of the national defense', approved July 2, 1940;

"(2) 'An act establishing overtime rates for compensation for employees of the field services of the War Department, and the field services of the Panama Canal, and for other purposes', approved October 21, 1940;

"(3) 'An act authorizing overtime rates of compensation for certain per annum employees of the field services of the War Department, the Panama Canal, the Navy Department, and the Coast Guard. . . .[17]

To such amendment, the following amendment was offered:[18]

Amendment offered by Mr. [John W.] Gwynne [of Iowa] as a substitute for the Smith amendment: Page 12, after line 11, insert a new title, as follows:

TITLE IV–A

The Judiciary Committee of the House is hereby directed to make an immediate study of all laws now . . . relating to the hours . . . compensation, and other conditions of employment . . . with a view to determining which of such laws actually impede . . . the production of . . . implements of war, and to make such recommendations as may appear advisable to expedite the production of . . . implements of war.

Mr. Charles F. McLaughlin, of Nebraska, made the point of order that the amendment was not germane.

The Chairman,[19] in ruling on the point of order, stated:

The amendment offered by the gentleman from Virginia [Mr. Smith] undertakes to enact certain substantive provisions of law. The amendment offered by the gentleman from Iowa provides for an investigation. Of course, the matter of ordering an investigation would be a proper subject matter to address to the House Committee on Rules. . . .

[T]he amendment offered by the gentleman from Iowa is not germane to the pending amendment offered by the gentleman from Virginia.

Organizational Bill Creating New Government Department—Amendment Changing Substantive Programs Transferred to Department

§ 4.86 To a bill reported from the Committee on Govern-

17. 88 CONG. REC. 1708, 1709, 77th Cong. 2d Sess., Feb. 26, 1942.

18. 88 CONG. REC. 1739, 77th Cong. 2d Sess., Feb. 27, 1942.

19. Jere Cooper (Tenn.).

ment Operations, establishing a new executive agency, transferring to such agency administration of federal funding programs within the jurisdiction of other committees, and containing an authorization of appropriations to carry out the Act and transferred functions, subject to existing laws limiting any appropriations for the transferred functions, an amendment prohibiting the use of funds authorized by that Act to carry out one of the funding programs being transferred to the new agency is not germane, where the bill is organizational only in nature and intended to transfer the administration of certain laws to that agency without modifying those laws, and where the amendment would impinge on the jurisdiction of other House committees having jurisdiction over those basic laws.

Parliamentarian's Note: Although it is ordinarily germane by way of amendment to limit the uses to which an authorization of appropriations carried in a bill may be applied, that principle normally applies to annual authorization bills reported by the committees having legislative and oversight jurisdiction over the statutes for which the funds are authorized; but where the Committee on Government Operations has reported an organizational bill to create a new department in the executive branch, which transfers the administration of existing statutes and programs to that department without modifying such statutes and programs, and which contains a general authorization of appropriations for the department to carry out its functions under the Act, such a bill is not necessarily open to amendments which change the substantive laws to be administered.

On June 19, 1979, the Committee of the Whole had under consideration H.R. 2444, reported from the Committee on Government Operations, to establish a new Department of Education, and transferring to such Department the administration of federally funded programs within the jurisdiction of other committees. The bill contained an authorization of appropriations to carry out its provisions and to enable the Department to perform the functions transferred to it, subject to existing laws limiting appropriations applicable to any of those functions.[20] An amendment was

20. See 125 CONG. REC. 14717, 96th Cong. 1st Sess., June 13, 1979.

offered[1] to prohibit the use of any funds appropriated under such authorization to provide for transportation of students or teachers for purposes of establishing racial or ethnic quotas in schools. The amendment was held to be not germane, on the grounds that the bill was merely organizational in nature and only transferred the administration of educational laws to the Department without modifying those laws; and because the amendment would impinge on the jurisdiction of other House committees having jurisdiction over those basic laws. The proceedings were as follows:

AUTHORIZATION OF APPROPRIATIONS

Sec. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

Amendment offered by Mr. Dornan: Page 90, after line 6, insert the following new section and redesignate the following sections accordingly:

PROHIBITION AGAINST THE USE OF PERSONNEL FUNDS TO FORCE RACIAL/ETHNIC QUOTA BUSING

Sec. 437. No funds appropriated under the authorization contained in section 436 may be used to assign Department of Education personnel to promote or to provide for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out such a plan in any school or school system.

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment. . . . [T]he language of section 436 that says that this authorization is subject to any limitation applicable with respect to any function transferred to the department, was added to the bill to negate any inference that this section authorizes any funds for programs so transferred.

Now, the section is designed to authorize only those additional appropriations which are necessary to establish and operate the department. Funds provided to public and private entities under the programs of the department are not authorized by this section, but by legislation subject to the jurisdiction of other committees and not now before the House.

An amendment to limit or constrain the use of those funds is, therefore, not germane to this bill. . . .

MR. [ROBERT K.] DORNAN [of California]: . . . Mr. Chairman, I may be supporting the bill. I do not think this is a frivolous amendment. I believe it is germane.

So as not to waste the time of this body or of this committee, I asked the

1. 125 CONG. REC. 15570, 96th Cong. 1st Sess., June 19, 1979.

parliamentarian last week to take an initial look at this. He said that it might take some further study, but that it looked germane at first view.

What it attempts to do, if it appears slightly redundant, is to make sure that the Department of Education is not crippled by the burden of reverse discrimination dealing with quotas, busing or teacher transfers. The teacher transfer problem is one to which my own brother has been subjected after teaching in a Los Angeles school system for 12 years.

I will accept whatever ruling the Chair issues to this, since they have already had a chance to take a look at it once.

I just simply state that it is germane in more than one section and not legislating in an appropriations bill, to point out areas in which money cannot be spent and to allocate any personnel to carry out someone else's school plan or to have a brand new department of education suffering under the burden of coming up with their own, I think would get the new department off to a bad footing for this or what I expect to be a whole new administration starting on January 20 of 1981. . . .

THE CHAIRMAN:[2] The Chair is prepared to rule.

The Chair recognizes that amendments are ordinarily germane which limit the uses to which an authorization of appropriations or an appropriation for an existing program may be put; however, the Chair knows of no precedent applying that principle to a bill which is only organizational in nature. Ordinarily, bills authorizing or making appropriations to carry out existing statutes emerge from the committees which have reported such statutes and which during the authorization and appropriation process have exercised oversight over the manner in which those programs are and should be carried out; but the fundamental issue involved with the pending bill is not whether those programs should be carried out as it is with annual authorizations or appropriations, but who should administer them. . . .

To allow as germane the amendment proposed by the gentleman from California would be to impinge upon the jurisdiction of the committees responsible for overseeing and authorizing the administration of the laws transferred by the pending legislation, and would broaden its scope beyond an organizational bill to one also modifying and limiting the programs proposed to be transferred intact to the new department.

The Chair believes that it is important to understand the impact which section 436 has upon the bill.

In this regard, the Chair will focus upon the first clause in that section, which on its face renders the authorization for appropriations subject to any limitations on appropriations applicable with respect to any function transferred to the department or secretary. Since the basic purpose of this bill is to create a new departmental entity to carry out existing educational programs and policies, it is reasonable to infer that the thrust of section 436 is merely to assure under the rules of the House that appropriations both for substantive educational programs and for administrative expenses of the new department as an organizational entity will continue to be considered as au-

2. Lucien N. Nedzi (Mich.).

thorized by and subject to provisions of existing law.

Thus, amendments to section 436 which attempt to restrict the availability of funds authorized therein in ways which are not addressed by existing law, such as the denial of funds to pay salaries and expenses to persons who promulgate regulations relating to some newly stated aspect of educational policy, are beyond the scope of title IV. Title IV establishes an administrative structure within the new department to carry out presently enacted educational programs and policies. Such a title should not, in an organizational bill, be open to amendments which redirect the administration of educational programs in ways not precisely contemplated by existing law.

Accordingly, the Chair sustains the point of order.

Amendment To Create Employee Positions in Bureau of Public Roads in Lieu of Positions Allocated Under Classification Act

§ 4.87 To a pending amendment in the nature of a substitute for a bill to supplement the Federal Aid Road Act, an amendment authorizing the creation of high level positions in the Bureau of Public Roads in lieu of any positions allocated under the Classification Act, was held to be not germane.

In the 84th Congress, during consideration of a bill[3] to amend and supplement the Federal Aid Road Act, the following amendment was offered[4] to a pending amendment in the nature of a substitute:

> Amendment offered by Mr. [Gordon H.] Scherer [of Ohio] to the amendment offered by Mr. [George A.] Dondero [of Michigan]: On page 22, after line 20, insert a new section as follows:
>
> Sec. 209. (a) The Secretary of Commerce . . . is authorized to place 2 positions in the Bureau of Public Roads in grade 18 and a total of 20 positions in grades 16 and 17 of the General Schedule established by the Classification Act of 1949, as amended. . . .

A point of order was raised by Mr. Robert E. Jones, Jr., of Alabama, against the amendment. In support of the point of order, he stated:

> Mr. Chairman, I think I have stated the point of order that this is a matter coming within the jurisdiction of the Committee on Post Office and Civil Service. It is a reclassification section, and therefore it is not germane to the [amendment]. . . .

The Chairman,[5] in ruling on the point of order, said:

> It is the opinion of the Chair that the amendment offered by the gen-

3. H.R. 7474 (Committee on Public Works).
4. 101 CONG. REC. 11689, 11690, 84th Cong. 1st Sess., July 27, 1955.
5. Eugene J. Keogh (N.Y.).

tleman from Ohio does, in fact, create additional positions within the general schedules established by the Classification Act of 1949, which is within the jurisdiction and authority of another standing committee of the House.

The Chair therefore is constrained to sustain the point of order.

Bill To Readjust Postal Rates—Amendment Directing Committee Chairmen To Investigate Operation of Post Office

§ 4.88 To a bill proposing to readjust postal rates, an amendment directing the Chairmen of the Committees on Post Office and Civil Service of the two Houses jointly to employ a staff of experts to investigate the operation of the Post Office Department was held to be not germane.

In the 82d Congress, during consideration of a bill[6] to readjust postal rates, an amendment was offered[7] as described above. Mr. Thomas J. Murray, of Tennessee, made the point of order that the amendment was not germane to the bill. The Chairman,[8] in ruling on the point of order, stated:[9]

> The committee has before it a bill to readjust postal rates. The gentleman from Pennsylvania [Mr. Corbett] has offered an amendment which would direct the chairman of the Committee of the House on the Post Office and Civil Service and of the Committee of the Senate on Post Office and Civil Service to employ not less than five individuals. The amendment goes further, and also fixes the salaries of persons so employed. . . . It is evident that the Committee on the Post Office and Civil Service would not have jurisdiction of a proposal to increase the employees of the committee or to create new positions in such committee. Therefore, the amendment goes far beyond the scope of the bill, and beyond the jurisdiction of the committee reporting the bill. Therefore, the Chair sustains the point of order.

Budget Resolution Addressing Congressional Action—Amendment Expressing Sense of Congress as to President's Authority Under Impoundment Control Act

§ 4.89 To a second concurrent resolution on the budget containing diverse provisions which addressed congressional actions on the budget, an amendment expressing the sense of Congress that

6. H.R. 2982 (Committee on Post Office and Civil Service).

7 97 CONG. REC. 11677, 82d Cong. 1st Sess., Sept. 19, 1951.

8. Paul J. Kilday (Tex.).

9. 97 CONG. REC. 11677, 11678, 82d Cong. 1st Sess., Sept. 19, 1951.

language repealing the Impoundment Control Act should be included in any continuing appropriation bill, thereby addressing issues of Presidential authority was conceded to be not germane.

During consideration of House Concurrent Resolution 448 in the Committee of the Whole on Nov. 18, 1980,[10] a point of order was conceded and sustained against the following amendment:

> Amendment offered by Mr. Latta: Insert after section 5 the following new section:
>
> Sec. 6. It is the sense of the Congress that the appropriate committees of the House of Representatives and the Senate make in order as part of any continuing appropriation bill for fiscal year 1981 language providing for the repeal of provisions of title X of Public Law 93–344, the Congressional Budget and Impoundment Control Act, effective upon enactment of such continuing appropriation and to continue no later than September 30, 1981. . . .
>
> MR. [JAMES M.] FROST [of Texas]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Ohio is not germane to House Concurrent Resolution 448, revising the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983.
>
> This amendment would make it the sense of the Congress that any continuing appropriation bill for fiscal year 1981 contain language that would repeal for 1 year the impoundment provisions of the Congressional Budget and Impoundment Control Act of 1974.
>
> The concurrent resolution implements certain directives of the Congressional Budget and Impoundment Control Act. The provisions establishing the concurrent budget resolution procedure are contained in the first nine titles of the act which are cited in Public Law 93–344 as the Congressional Budget Act of 1974. They have no relation to, nor are they derived from, title X, which is cited as the Impoundment Control Act of 1974.
>
> It would seem clear, then, that the intent of the act was for concurrent resolutions on the budget to address the internal budget process of the Congress rather than addressing the impoundment process to be followed between the executive and the legislative branches as established by statute.
>
> To include directives concerning impoundment in a concurrent budget resolution, then, would be outside the intent of the statute and beyond the scope of the resolution, thus rendering them nongermane.
>
> While the specific language of the Latta amendment would not amend the Congressional Budget and Impoundment Control Act, the ultimate effect would be to do so. The Latta amendment would require, as a sense of the Congress, that a continuing appropriation bill contain language repealing for 1 year the impoundment provisions of title X of the Congressional Budget and Impoundment Act. In all likelihood, any amendment to such a continuing appropriation bill

10. 126 CONG. REC. 30026, 30027, 96th Cong. 2d Sess.

would be nongermane. Further, if a continuing appropriation bill were introduced with such language, it would be subject to referral to the Committee on Rules, which has jurisdiction over amendments to the Budget Act.

While jurisdiction over a legislative matter is not the sole test of germaneness, it is an important consideration. For example, Deschler's Procedure at chapter 28, section 4.26, states:

> To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane.

It may be argued that an amendment directing the offering of a nongermane amendment in and of itself could be considered nongermane. Argument has been proposed that section 4 of House Concurrent Resolution 448 provides a basis of germaneness for the Latta amendment. Section 4 contains sense of the Congress language stating that, "A full-scale review of the Budget Act and the congressional budget process should be undertaken without delay." This language does not require any specific action to be taken to change the budget process or to amend the Budget Act. The Latta amendment would extend the scope of the sense of the Congress language in section 4 to require that a specific amendment repealing the impoundment provisions of the Budget Act be adopted.

The precedents indicate such action would be nongermane. For example, Deschler's Procedure at chapter 28, section 33.23, states:

> An amendment requiring the availability of funds "under this or any other Act" for certain humanitarian assistance was held to go beyond the scope of the pending bill and was ruled out as not germane, affecting funds in other provisions of law.

I would contend, Mr. Chairman, that the Latta amendment is nongermane. . . .

MR. [DELBERT L.] LATTA [of Ohio]: . . . This resolution contains no reconciliation instruction which could force the committees of the Congress to come up with the spending cuts of $17 billion. Likewise, it gives the President no power whatsoever to accomplish these cuts by executive direction. This amendment would address this deficiency if it were allowed without the point of order. It provides that it is the sense of the Congress that when it takes up the continuing resolution for the 1981 appropriations, it will include language which suspends, for the remainder of fiscal year 1981 only, the anti-impoundment provisions of the Budget Act. What it would do, then, is give the President-elect the ability to keep Federal spending within the ceiling established in this budget resolution should the Congress be unable to do so. . . .

Mr. Chairman, I concede the point of order.

THE CHAIRMAN:[11] The point of order is conceded. The point of order is sustained.

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11. William H. Natcher (Ky.).

Bill To Increase Debt Ceiling—Amendment Affecting Budget and Appropriations Procedures

§ 4.90 To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year but not directly amending the Second Liberty Bond Act, an amendment proposing permanent changes in that Act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane.

On Nov. 7, 1973,[12] it was demonstrated that to a bill proposing a temporary change in law, an amendment making other permanent changes in that law is not germane:

The Clerk read as follows:

Sec. 2. Effective on the date of the enactment of this Act, section 101 of the Act of October 27, 1972, providing for a temporary increase in the public debt limit for the fiscal year ending June 30, 1973 (Public Law 92–599), as amended by the first section of Public Law 93–53, is hereby repealed.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross: On page 2, line 3, after the period, insert the following: *Provided further*, that the expenditures of the Government during each fiscal year, including reduction of the public debt in accordance with the provisions of section 3, shall not exceed its revenues for such year except—

(1) in time of war declared by the Congress . . .

Sec. 3. Section 21 of the Second Liberty Bond Act, as amended (31 U.S.C. 757b), is amended by inserting "(a)" after "Sec. 21.", and by adding at the end thereof the following:

"(b) The public debt limit set forth in subsection (a) is hereby reduced as follows:

"(1) Effective on July 1, 1974, by an amount equal to 2 percent of the net revenue of the United States for the fiscal year ending June 30, 1973;

"(2) Effective on July 1, 1975, by an amount equal to 3 percent of the net revenue of the United States for the fiscal year ending June 30, 1974;

"(3) Effective on July 1, 1976, by an amount equal to 4 percent of the net revenue of the United States for the fiscal year ending June 30, 1975;

"(4) Effective on July 1, 1977, and July 1 of each year thereafter, by an amount equal to 5 percent of the net revenue of the United States for the fiscal year ending on June 30, of the preceding year."

Sec. 4. (a) The Budget submitted annually by the President pursuant to section 201 of the Budget and Accounting Act, 1921, as amended, shall be prepared, on the basis of the best estimates then available, in such a manner as to insure compliance with the first section of this Act.

(b) Notwithstanding any obligational authority granted or ap-

12. 119 CONG. REC. 36240, 36241, 93d Cong. 1st Sess. Under consideration was H.R. 11104, providing for a temporary increase in the public debt limit.

propriations made except such with respect to the legislative and judicial branches of the Government, the President shall from time to time during each fiscal year take such action as may be necessary (by placing funds in reserve, by apportionment of funds, or otherwise) to insure compliance with the first section of this Act.

Sec. 5. The Congress shall not pass appropriations measures which will result in expenditures by the Government during any fiscal year in excess of its estimated revenues for such year (as revenues have been estimated in the budget submitted by the President), except—

(1) to the extent of any additional revenues of the Government for such fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year; or

(2) in time of war declared by the Congress; or

(3) during a period of grave national emergency declared in accordance with the first section of this Act; but, subject to paragraph (1) of this section, appropriations measures which will so result in expenditures in excess of estimated revenues may be passed by the Congress only during such a period of grave national emergency.

Sec. 6. This Act shall apply only in respect of fiscal years beginning after June 30, 1974.

MR. [AL] ULLMAN [of Oregon]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:[13] The gentleman will state his point of order.

MR. ULLMAN: Mr. Chairman, the bill before us provides for a temporary change in the debt ceiling in conformity with the Second Liberty Bond Act. The amendment offered by the gentleman from Iowa makes a permanent change in the Second Liberty Bond Act, and therefore is not germane to this bill. . . .

MR. GROSS: . . . Mr. Chairman, the entire thrust of the bill before us is the national debt and the ceiling of that debt. The main thrust of this amendment is to control the Federal debt and reduce the ceiling.

Mr. Chairman, I believe the amendment is in order.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The bill presently before the House provides for a temporary change in the debt limit for this fiscal year, and the amendment constitutes a permanent change in the law.

In addition, the amendment also goes to the preparation of the budget under the Budget and Accounting Act which is under the jurisdiction of another committee. Volume 8 of the precedents of the House provides under section 2914 the following:

> To a section proposing legislation for the current year, an amendment rendering such legislation permanent was held to be not germane.

The Chair sustains the point of order.

General Appropriation Bill—Amendment To Modify Rules of Congress for Consideration of Appropriations in Subsequent Years

§ 4.91 To a general appropriation bill providing funds for one fiscal year, an amendment changing existing law

13. William H. Natcher (Ky.).

by imposing restrictions on a permanent appropriation for compensation for Members of Congress, and furthermore amending the rules of the House and Senate to modify procedures for consideration of appropriation bills in subsequent years, was ruled out of order as legislation on an appropriation bill and as not germane, in that such amendment enlarged the scope of the bill and was partly within the jurisdiction of the Committee on Rules.

On June 29, 1987,[14] during consideration of the Legislative Branch Appropriations, fiscal 1988,[15] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [DANIEL E.] LUNGREN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lungren: Page 31, after line 25, insert the following new sections:

Sec. 309. Subsection (c) of section 130 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes" (approved October 1, 1981; Public Law 97–51) is amended by striking out "Effective" and by inserting in lieu thereof "(1) Except to the extent provided by paragraph (2), effective" and by inserting at the end thereof the following new paragraph:

"(2) If all general appropriation bills for any fiscal year have not been presented to the President for signature under section 7 of Article I of the Constitution before the beginning of that fiscal year, then the appropriation contained in paragraph (1) shall not be effective with respect to such fiscal year.".

Sec. 2310. It shall not be in order in either the House of Representatives or the Senate to consider the general appropriation bill making appropriations for the legislative branch for any fiscal year unless and until all other general appropriation bills for such fiscal year have been presented to the President for signature under section 7 of Article I of the Constitution. . . .

MR. [VIC] FAZIO [of California]: Mr. Chairman, this amendment violates the Rules of the House in several instances, as follows:

First, it goes beyond the bill under consideration, amending the continuing resolution, and as such is not germane. This is a violation of rule XVI, clause 7.

Second, the amendment constitutes legislation on an appropriations bill and as such is in violation of clause 2 of rule XXI.

Third, in effect, this amendment amends the Rules of the House, a subject which is under the jurisdiction of the Committee on Rules. . . .

MR. LUNGREN: Mr. Chairman, I would have to concede that this is legislation on an appropriation bill. Unfortunately, this is the only manner in which this subject seems to be able to be raised. . . .

14. 133 CONG. REC. 18082, 18083, 100th Cong. 1st Sess.

15. H.R. 2714.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The gentleman from California [Mr. Lungren] has conceded the point of order raised by the chairman of the subcommittee, the gentleman from California [Mr. Fazio], and the point of order is sustained.

Bill Authorizing Issuance of Bonds—Amendment Providing Bonds Be Tax Exempt

§ 4.92 To that section of a bill authorizing the issuance of bonds, an amendment providing that such bonds be exempt both as to principal and interest from any taxes was held to be germane.

The following exchange in the 74th Congress,[17] during consideration of a bill[18] to amend an act relating to flood control and industrial development in the Tennessee Valley, concerned a point of order raised against the amendment described above.

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order. . . .

Is that germane to the bill? It relates to the taxing authority of the Government, and that can only be considered when coming from the Ways and Means Committee.

THE CHAIRMAN: The Chair holds that the amendment is germane in that it simply provides an exemption with respect to the bonds to be issued by the Corporation.

MR. TABER: Will the Chair rule on the other part of the point of order, that a bill coming from this committee cannot be considered when it relates to the taxing power of the Government and that the amendment does relate to the taxing power of the Government, and therefore must come from the Ways and Means Committee?

THE CHAIRMAN: The Chair holds that the amendment strikes at that power in an incidental way, and therefore is not subject to the point of order.

The point of order is overruled.

Parliamentarian's Note: This precedent has been effectively overruled by § 4.45, infra.

Joint Resolution Directing Agencies To Make Information Available to Committees—Amendment To Create Joint Committee

§ 4.93 To a joint resolution directing agencies of the government to make certain information available to committees of Congress, an amendment proposing creation of a joint committee that would formulate "rules . . . with respect to the powers, duties, and procedures of all committees of either House under this joint reso-

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16. William J. Hughes (N.J.).

17. 79 CONG. REC. 10967, 74th Cong. 1st Sess., July 10, 1935. The Chairman was William J. Driver (Ark.).

18. H.R. 8632 (Committee on Military Affairs).

lution" was held to be not germane.

In the 80th Congress, during consideration of a bill[19] directing agencies of the government to make available to congressional committees certain information, an amendment was offered[20] as described above. In ruling on a point of order raised by Mr. Clare E. Hoffman, of Michigan, the Chairman, Leo E. Allen, of Illinois, stated:[1]

> [T]his amendment would create a joint standing committee. It would take away the authority of the Rules Committee which under the rules of the House has jurisdiction over this subject. The Chair therefore holds that the amendment is not germane and sustains the point of order.

Amendment Changing Method of Appointing Members of Civil Rights Commission

§ 4.94 To a bill reported from the Committee on the Judiciary, establishing a commission on civil rights with members to be appointed by the President, an amendment requiring that the commissioners be Members of Congress and that they be appointed by the Speaker and President of the Senate was held to be not germane.

In the 84th Congress, a bill[2] was under consideration which stated in part:[3]

> PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS
>
> Sec. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").
>
> (b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. . . .

The following amendment was offered to the bill:[4]

> Amendment offered by Mr. [Walter E.] Rogers of Texas: Amend H.R. 627 by striking out all of section 101 beginning on line 21, page 19, to and including all of line 14 on page 20, and all of line 15 on page 20 and inserting in lieu thereof the following:
>
> Sec. 101. . . .
>
> (b) The "Commission" shall be composed of six Members of the Congress of the United States of America, 3 of which shall be duly elected and qualified Members of the United States House of Representatives and 3 shall

19. H.J. Res. 342 (Committee on Expenditures in the Executive Departments).

20. 94 CONG. REC. 5811, 80th Cong. 2d Sess., May 13, 1948.

1. *Id.* at p. 5812.

2. H.R. 627 (Committee on the Judiciary).

3. 102 CONG. REC. 13542, 84th Cong. 2d Sess., July 19, 1956.

4. *Id.* at pp. 13548, 13549.

be duly elected and qualified Members of the United States Senate. The Members of the House of Representatives shall be appointed by the Speaker of the House of Representatives. . . . The Members representing the Senate shall be appointed by the President of the Senate. . . .

A point of order was raised against the amendment as follows: (5)

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make a point of order against the amendment that it is not germane. This amendment seeks to set up a joint congressional committee. As such, the jurisdiction over such procedure would come within the Rules Committee.

The Chairman,(6) in ruling on the point of order, stated:

[T]he amendment would provide for the appointment of what is tantamount to a joint committee composed of Members of the Senate and the House of Representatives, which is clearly a deviation from the original purpose of the legislation.

For that reason, the Chair sustains the point of order.

Resolution Providing for Special Committee To Investigate Campaign Expenditures—Amendment Directing Payment of Expenses From Contingent Fund

§ 4.95 To a resolution reported from the Committee on Rules providing for a special committee to investigate campaign expenditures, a committee amendment providing in part that expenses of such committee be paid from the contingent fund of the House was held to be not germane.

In the 78th Congress, during consideration of a resolution (7) providing for a special committee, a committee amendment was reported which provided that the special committee's expenses be paid from the contingent fund of the House.(8) A point of order was raised against the amendment, as follows:

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I make a point of order against the amendment on the ground that the Rules Committee has exceeded its authority. . . .

The following exchange ensued: (9)

THE SPEAKER: (10) It is a question of germaneness, whether the amendment is germane to the resolution.

MR. [EARL C.] MICHENER [of Michigan]: The point of order made by the gentleman from Missouri would strike out the entire amendment because a part of it was not germane?

THE SPEAKER: The gentleman from Michigan . . . realizes that one part of an amendment being deficient, the whole amendment is vitiated.

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5. *Id.* at p. 13549.

6. Aime J. Forand (R.I.).

7. H. Res. 551 (Committee on Rules).

8. 90 CONG. REC. 6393, 78th Cong. 2d Sess., June 21, 1944.

9. *Id.* at p. 6394.

10. Sam Rayburn (Tex.).

The Speaker then sustained the point of order. Citing precedents, the Speaker noted that the matter in question was within the jurisdiction of the Committee on Accounts.

Appropriations for Expense Allowances for Members—Amendment to Amend Internal Revenue Code

§ 4.96 To a provision, in a general appropriation bill, appropriating sums for expense allowances for Members, an amendment seeking to amend the Internal Revenue Code was held to be not germane.

On May 10, 1945, the Legislative Appropriations Bill of 1946 (11) was under consideration, stating in part: (12)

> There shall be paid to each Representative and Delegate, and to the Resident Commissioner from Puerto Rico, after January 2, 1945, an expense allowance of $2,500 per annum to assist in defraying expenses related to or resulting from the discharge of his official duties. . . .

The following amendment was offered:

> There shall be paid to each Representative and Delegate and to the Resident Commissioner from Puerto Rico after January 2, 1945, an additional annual salary of $1,500. . . .
>
> Section 23(a)(1)(A) of the Internal Revenue Code (relating to deductibility of trade and business expenses) is amended by inserting at the end thereof a new sentence as follows: For the purposes of this chapter, in the case of an individual holding an office as a Member of the Congress . . . his home shall be considered to be his place of residence within the State . . . from which he is such a member, but the deduction allowable for the taxable year by reason of this sentence shall in no event exceed $2,500. . . .

A point of order was raised against the amendment, as follows:

> MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, I make the point of order that the amendment goes far beyond the provisions of the bill. . . . Certainly the provision reading "his home shall be considered to be his place of residence within the State . . ." does not confine it to the purposes of taxation but would affect many, many laws on the statute books today not in any way related to taxation. . . .

The Chairman, John J. Delaney, of New York, in ruling on the point of order, stated: (13)

> One item in the bill is an expense allowance of $2,500 per annum, which in no sense of the word is a raise of salary. The gentleman from Mississippi includes in his amendment to that pro-

11. H.R. 3109 (Committee on Appropriations).

12. See 91 CONG. REC. 4451, 79th Cong. 1st Sess.

13. *Id.* at p. 4452.

vision matter that evidently is not germane to the bill. Therefore, the Chair sustains the point of order.

Subsequently, Mr. William M. Whittington, of Mississippi, offered an amendment containing language as above relating to the Internal Revenue Code. The Chairman, in again sustaining a point of order raised by Mr. O'Neal, stated: (14)

The pending appropriation bill contains a provision that would allow Members of Congress a sum not exceeding $2,500 to pay expenses. The amendment offered by the gentleman from Mississippi would constitute legislation on an appropriation bill, legislation which comes within the province of the Committee on Ways and Means. The Chair is of the opinion that the amendment is not germane to the pending paragraph and, therefore, sustains the point of order.

Bill Containing Provisions Addressing Relationship Between Federal Laws and Certain Industry—Amendment Proposing Study of Impact of Possible Tax Law Changes

§ 4.97 Although a proposal for a change in the tax laws is not ordinarily germane to a bill which has not been reported by the Committee on Ways and Means, a proposal for a study of the impact of possible tax law changes on a certain industry may be germane to a bill with broad and diverse provisions on the subject of the relationship between federal law and the industry in question.

The proceedings of Sept. 5, 1980, relating to H.R. 7235, the Rail Act of 1980, are discussed in § 3.24, supra.

Price Control Bill—Amendment Relating to Stamp Taxes and Repealing Silver Purchase Act

§ 4.98 To a price control bill, an amendment repealing the Silver Purchase Act of 1934 and containing provisions relating to stamp taxes, matters within the jurisdiction of another committee, was held to be not germane.

In the 77th Congress, during consideration of the Price Control Bill,(15) Mr. Everett M. Dirksen, of Illinois, offered an amendment (16) as described above. The Chairman, Jere Cooper, of Tennessee, in ruling on a point of order raised by Mr. Henry B. Steagall, of Alabama, stated: (17)

14. *Id.* at p. 4453.

15. H.R. 5990 (Committee on Banking and Currency).

16. 87 CONG. REC. 9223, 77th Cong. 1st Sess., Nov. 28, 1941.

17. *Id.* at p. 9224.

The gentleman from Alabama makes a point of order against the amendment offered by the gentleman from Illinois on the ground that it covers a subject matter clearly coming within the jurisdiction of another standing committee of the House. The Chair is of the opinion that the amendment is subject to this point of order and therefore sustains the point of order.[18]

Public Works Construction Bill—Revenue-sharing Amendment

§ 4.99 While committee jurisdiction over the subject matter of an amendment is not the exclusive test of germaneness in cases in which the proposition being amended already contains comprehensive provisions that overlap jurisdictional delineations, it is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview.

H.R. 5247, a bill reported from the Committee on Public Works and Transportation, consisted of one title relating to grants to state and local governments for local public works construction projects. A new title added by the Senate and contained in a conference report provided grants to state and local governments to assist them in providing public services. On Jan. 29, 1976,[19] a point of order was made in the House against the title added by the Senate:

MR. [ROBERT E.] JONES, Jr., of Alabama: Mr. Speaker, I call up the conference report on the bill (H.R. 5247) to authorize a local public works capital development and investment program, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Speaker, I make a point of order that title II of the conference report to H.R. 5247 constitutes a nongermane Senate amendment to the House-passed bill and is in violation of clause 4 of rule XXVIII of the House rules. . . .

Mr. Speaker, when H.R. 5247 was before the House in May, it was for the sole purpose of authorizing appropriations for the construction of public works projects to help alleviate unemployment. Along with 312 other Members of the House, I supported that legislation.

However, when the bill was before the Senate, title II, an entirely dif-

18. Subsequently, an amendment seeking to repeal certain provisions of the Agricultural Adjustment Act, which was within the jurisdiction of another committee, was also held not germane to the Price Control Bill. *Id.* at p. 9225 (ruling of the Chairman with respect to another amendment offered by Mr. Dirksen).

19. 122 CONG. REC. 1582, 94th Cong. 2d Sess.

ferent and unrelated matter, was added. Title II is not a public works provision. Title II simply authorizes appropriations for the basic day-to-day support of the budgets of State and local governments. It is, in short, a revenue sharing provision.

Mr. Speaker, you, yourself, must have recognized this as revenue sharing legislation when you referred identical legislation introduced in the House exclusively to the Government Operations Committee. Title II clearly falls within the jurisdiction of the Government Operations Committee, not the Public Works Committee.

Even in the Senate, this provision came out of the Government Operations Committee, not the Public Works Committee. Perhaps if the Senate had a rule on germaneness as we do, we would not be facing this problem right now.

Had title II been offered in the House when this bill was before us on the floor, it would clearly have been subject to a point of order as nongermane under clause 7 of rule XVI. It, therefore, continues to be nongermane under clause 4 of House rule XXVIII dealing with conference reports.

Mr. Speaker, I recognize that committee jurisdiction is not the exclusive test of germaneness. I do not base my point of order on this issue alone. This provision simply has nothing to do with public works, the only matter which was before the House in H.R. 5247. To the contrary, the use of title II funds for construction purposes is specifically prohibited. Furthermore, there is not one word in title II to guarantee that the funds will be used to stimulate employment, the primary purpose of H.R. 5247.

Mr. Speaker, title II does not come within the jurisdiction of the Public Works Committee. It does not constitute public works or emergency employment legislation, and it could not have been incorporated into the bill when it was previously before the House. For these reasons, I respectfully request that my point of order be sustained. . . .

MS. [BELLA S.] ABZUG [of New York]: . . . There has been a certain confusion presented here, and that is in the meaning of the rule which this House passed and which my esteemed chairman, the gentleman from Texas (Mr. Brooks) referred to. Clause 4, rule XXVIII, was passed by this House in 1970 and 1972. This procedure which the House adopted in 1972 was intended to do away with the situation wherein the Senate . . . attached to a House-passed bill matter that was wholly unrelated to the subject on which the House had acted. . . .

The bill as reported from the conference does not contain provisions whose subject and substance is different. Title I of the conference report version is almost identical with the House-passed bill. Title II, upon which there is now brought a question of a separate vote, is the conference version and is also directed, as is title I, to the question of assistance in unemployment, and is so aimed at correcting it at the local level. . . . The allocation of funds is dependent on the extent to which unemployment in any area exceeds the national average, so that both the public works, title I, and title II, countercyclical assistance, have the same, identical goal. That is, to ease the current recession. . . .

MR. [JAMES C.] CLEVELAND [of New Hampshire]: . . . The fundamental

method used in the original bill to stimulate the economy is to provide for the construction of public works projects. The methods used in the amendment provide for the stabilization of budgets of general purpose governments, the maintenance of basic services ordinarily provided by the State and local governments, emergency support grants to State and local governments to coordinate budget-related actions with the Federal Government. Clearly, the methods provided for in the Senate amendment are on their face so different from those in the House bill as to preclude their being considered as the same or closely allied. For this reason, then, the amendment is in violation of clause 4, rule XVI.

THE SPEAKER:[20] The Chair is ready to rule.

The gentleman from Texas (Mr. Brooks) makes the point of order that title II of the conference report, which was contained in the Senate amendment to H.R. 5247, would not have been germane if offered as an amendment in the House and is thus subject to a point of order under rule XXVIII, clause 4.

The test of germaneness in this case is the relationship between title II of the conference report and the provisions of H.R. 5247 as it passed the House. The Chair believes that had title II been offered as an amendment in the House it would have been subject to a point of order on two grounds.

First, one of the requirements of germaneness is that an amendment must relate to the fundamental purpose of the matter under consideration and must seek to accomplish the result of the proposed legislation by a closely related means—Deschler's Procedure, chapter 28, sections 5 and 6. The fundamental purpose of the bill when considered by the House was to combat unemployment by stimulating activity in the construction industry through grants to States and local governments to be used for the construction of local public works projects.

While the fundamental purpose of title II of the conference report is related to the economic problems caused by the recession, specifically unemployment, the means proposed to alleviate that problem are not confined to public works construction. Title II authorizes grants to States and local governments to pay for governmental services such as police and fire protection, trash collection and public education. The managers, in their joint statement, specifically state that the grants under title II are for the "maintenance of basic services [ordinarily] provided by the State and local governments and that State and local governments shall not use funds received under the act for the acquisition of supplies or for construction unless essential to maintain basic services." An additional purpose of this title is to reduce the necessity of increases in State and local government taxes which would have a negative effect on the national economy and offset reductions in Federal taxes designed to stimulate the economy. The Chair therefore finds that the program proposed by title II of the report is not closely related to the method suggested in the House version of the bill.

Second, title II of the report proposes a revenue sharing approach to the problems faced by State and local gov-

20. Carl Albert (Okla.).

ernments during the present recession. General revenue sharing is a matter within the jurisdiction of the Committee on Government Operations under rule X, clause 1(h)(4), and a bill, H.R. 6416, in many respects identical to title II of the report, was introduced in the House on April 28, 1975, and referred to that committee. While committee jurisdiction is not the exclusive test of germaneness—Deschler's Procedure, chapter 28, section 4.16—it is a relevant test where, as here, the scope of the House bill is within one committee's jurisdiction. The precedents indicate that as a bill becomes more comprehensive in scope the relevance of the test is correspondingly reduced. The bill, as it passed the House, was not a comprehensive antirecession measure overlapping other committees' jurisdictions, but proposed a specific remedy, local public works construction assistance, to a complex problem. Given the limited scope of the bill as it passed the House, the Chair finds the jurisdiction test quite persuasive in this instance.

For the reasons just stated, the Chair sustains the point of order.

Provisions Making Support Fund Effective Upon Approval by Congressional Committees (as Provided by Public Buildings Act) of Construction of Eisenhower Civic Center—Amendment Changing Approval Procedures Under Law

§ 4.100 While as a general rule an amendment to a law which had been reported from one committee is not germane to a bill reported from another committee, where the pending bill incorporates by reference provisions of a law from another committee and conditions the bill's effectiveness upon actions taken pursuant to a section of that law, an amendment to alter that section of the law may be germane; thus, to a section in a District of Columbia Committee amendment in the nature of a substitute providing that a support fund for the Eisenhower Civic Center would become effective upon approval of construction of the Center by the House and Senate Committees on the District of Columbia and Appropriations as provided in section 18 of the Public Buildings Act (originally reported from the Committee on Public Works), an amendment changing the approval mechanism in that section of law (to eliminate the Committees on Appropriations) was held germane.

During consideration of H.R. 12473 in the Committee of the

Whole on Apr. 8, 1974,[1] the Chair overruled a point of order against the following amendment:

MR. [KENNETH J.] GRAY [OF ILLINOIS]: MR. CHAIRMAN, I OFFER AN AMENDMENT TO THE COMMITTEE AMENDMENT.

The Clerk read as follows:

> Amendment offered by Mr. Gray to the committee amendment: Page 21, strike out lines 4 through 8, inclusive, and insert in lieu thereof the following:
>
> Sec. 16. (a) Subsection (b) of section 4 of the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act (P.L. 92–520) is hereby repealed.
>
> (b) Paragraph (4) of subsection (d) of section 18 of the Public Buildings Act of 1959 is amended by striking out the following: ", and the Senate and House Committees on Appropriations,". . . .

MR. [THOMAS M.] REES [of California]: Mr. Chairman, I reserve a point of order on the amendment to the committee amendment. . . .

THE CHAIRMAN:[2] Does the gentleman from California desire to be heard on the point of order?

MR. REES: . . . The point of order is that the amendment offered by the gentleman from Illinois is not germane to the Eisenhower Memorial Civic Center Sinking and Support Funds Act of 1974, which is the bill now before us. What the gentleman's amendment does is amend the Public Buildings Act of 1959, as amended, to create the Eisenhower Civic Center. What his amendment would specifically do would be to delete two sections, one of them with the congressional approval, and the other, section 4(b), dealing with the authorization for $14 million.

It is my contention, Mr. Chairman, that his amendments would only be germane to specific legislation, which would be an amendment to the Public Buildings Act of 1959. . . .

MR. GRAY: Mr. Chairman, the parameters and the scope of my amendment concern financing only. It is true that the Public Buildings Amendments Act of 1959, as amended, was the authority for the establishment of the authorization for this center. My amendment only deals with the $14 million, which is part of the financing similar to the purposes of H.R. 12473, which is to establish and finance a sinking fund for the Dwight D. Eisenhower Memorial Bicentennial Civic Center. Very simply put in Illinois country language, one puts in; the other takes out. It is a very simple amendment. . . .

MR. [M. G.] SNYDER [of Kentucky]: . . . I support the points raised by the gentleman from California with regard to germaneness. I take issue with the gentleman from Illinois that all this amendment does is relate to financing. That is not accurate. This amendment also takes away an oversight of the District of Columbia and of both the House and the Senate. It attempts to amend the provisions of law of the Committee on Public Works, rather than the attempts of the District of Columbia relating to this legislation concerning financing. . . .

THE CHAIRMAN: The gentleman from California (Mr. Rees) makes the point of order that the amendment offered by the gentleman from Illinois (Mr.

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1. 120 CONG. REC. 10108–10, 93d Cong. 2d Sess.

2. Melvin Price (Ill.).

Gray) is not germane to the committee amendment in the nature of a substitute for the bill H.R. 12473. The gentleman from Kentucky (Mr. Snyder) also supports the point of order. The Chair has listened to the arguments in support of and against the point of order.

The committee amendment establishes a support fund for the Civic Center, into which will be deposited funds from operating revenues, spinoff tax benefits, certain local income, real estate and sales taxes and funds appropriated pursuant to the authorization of $14 million contained in section 18 of the Public Buildings Act as the Federal share for the construction costs of the Eisenhower Civic Center.

The amendment of the gentleman from Illinois would repeal that portion of the Eisenhower Civic Center Act—section 18 of the Public Buildings Act which authorizes the $14 million share—and repeal that portion of the "approval" provision contained in section 18 which requires approval of the Senate and House Committees on Appropriation. The amendment has been drafted as a substitute for the language contained in section 16 of the committee amendment, which provides that the provisions of H.R. 12473 become effective either on date of enactment or upon approval by the House and Senate Committees on the District of Columbia and Appropriations as provided in section 18 of the Public Buildings Act, whichever is later.

While under ordinary circumstances an amendment to a law reported from committee B is not germane to a bill reported by committee A, in this instance the Gray amendment would appear to be germane to section 16 of the committee amendment to H.R. 12473.

The Chair would cite two reasons for reaching this conclusion: First, since section 16 of the committee amendment makes the act contingent upon approval of construction plans as provided in section 18 of the Public Buildings Act, an amendment to alter the approval mechanism contained in that act is germane; and second, since H.R. 12473 would transfer funds appropriated as the Federal share into the support fund being established in the bill, the concept of the extent of Federal participation in the project has been injected into the committee amendment. Therefore an amendment to eliminate the Federal share, thereby making the project one which will be financed entirely by local revenues, in the opinion of the Chair is germane.

For these reasons the Chair holds that the amendment is germane and overrules the point of order.

Bill Authorizing Appropriations for Expansion of Educational Programs—Amendment Providing Tax Deduction for Support of College Student

§ 4.101 To a bill authorizing appropriations to assist in the expansion and improvement of educational programs, an amendment, in the nature of a substitute, to provide for an income tax deduction for anyone furnishing support to a student in college was held to be not germane.

In the 85th Congress, during consideration of a bill [3] to assist in the expansion and improvement of education programs to meet critical national needs, the following amendment was offered: [4]

> Amendment offered by Mr. [John P.] Saylor (of Pennsylvania): Strike out all after the enacting clause and insert: "That any person who provides more than 50 percent of a student's support while attending a college or institution of higher learning shall be entitled to an additional exemption on his or her income tax for any year beginning with 1958 of $1,000."

A point of order was raised against the amendment, as follows:

> MR. [CARL A.] ELLIOTT [of Alabama]: Mr. Chairman, I make the point of order that the amendment is not germane. It involves a tax question which falls within the jurisdiction of another committee of the House, the House Committee on Ways and Means.

The Chairman, John E. Fogarty, of Rhode Island, in ruling on the point of order, stated: [5]

> This is not an appropriation bill that we are considering today. It is strictly an authorization bill. The Chair feels that it does invade the jurisdiction of another committee, the Committee on Ways and Means, and therefore sustains the point of order.

Provisions Prescribing Standards for Administration of Educational Programs—Amendment Providing Remedies for Denial of Equal Educational Opportunity

§ 4.102 To an Education and Labor Committee amendment in the nature of a substitute extending and amending several laws relating to federal assistance to state and local educational agencies and prescribing standards to be followed by educational agencies in the administration of federally funded educational programs, an amendment proscribing educational agencies from denying equal educational opportunity to public school students and providing judicial and administrative remedies for denials of equal educational opportunity and of equal protection of the laws was held germane.

The proceedings of Mar. 26, 1974, during consideration of H.R. 69, to amend and extend the Elementary and Secondary Education

3. H.R. 13247 (Committee on Education and Labor).

4. 104 CONG. REC. 16734, 85th Cong. 2d Sess., Aug. 8, 1958.

5. *Id.* at p. 16735.

Act, are discussed in Sec. 3, supra.

Bill To Protect Civil Rights—Amendment to Provide Aid to Education on Basis of Progress in Desegregation

§ 4.103 To a bill to protect political rights, reported from the Committee on the Judiciary, an amendment to provide aid to education in communities proceeding with desegregation was held to be not germane, the subject of the amendment being a matter within the jurisdiction of the Committee on Education and Labor.

In the 86th Congress, a bill[6] was under consideration relating to enforcement of constitutional rights. The following amendment was offered to the bill:[7]

> Amendment offered by Mr. [Emanuel] Celler [of New York]: Insert a new title VII and renumber the remaining titles and sections accordingly:
>
> TITLE—
>
> GRANTS TO ASSIST STATE AND LOCAL EDUCATIONAL AGENCIES TO EFFECTUATE DESEGREGATION
>
> Authorization of Appropriations
>
> Sec.—. (a) For the purpose of assisting State and local educational agencies which, on May 17, 1954, maintained segregated public schools to effectuate desegregation in such schools in a manner consistent with pertinent Federal court decisions, there are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine. . . .

A point of order was raised against the amendment, as follows:

> MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Chairman, I make a point of order against the amendment. . . .
>
> As the Chair has just ruled, the basic purpose of the bill under consideration has to do with protection of voting rights. This amendment deals with a system of Federal aid to education. It sets forth new procedures that are wholly unrelated to the basic bill.

In defending the amendment, the proponent, Mr. Celler, stated:[8]

> . . . The amendment now before us concerns the right to education, the right of certain people in certain localities to have their children educated. This amendment merely adds another proposition whereby a remedy is pro-

6. H.R. 8601 (Committee on the Judiciary).

7. 106 CONG. REC. 5479, 86th Cong. 2d Sess., Mar. 14, 1960.

8. *Id.* at p. 5480.

vided to enforce a constitutional right and therefore it is germane. Here we are merely adding another proposition to a series of individual propositions dealing with one class, namely: the enforcement of constitutional rights.

The Chairman, Francis E. Walter, of Pennsylvania, in ruling on the point of order, stated: (9)

. . . [T]he Chair holds that the amendment offered by the gentleman from New York is not germane because it seeks to introduce a subject matter which would have been referred to a committee other than the one reporting the pending bill. The Chair is of the opinion that the matter contained in the amendment is a subject within the jurisdiction of the Committee on Education and Labor and not the Committee on the Judiciary. Therefore, the Chair rules that the amendment offered by the gentleman from New York is not germane.

Bill To Protect Mentally Ill—Amendment Prohibiting Use of Revenue-sharing Funds for Jurisdictions Permitting Operation of Homosexual Bathhouses

§ 4.104 To an individual proposition relating to mental health, an amendment addressing other public health hazards and funding programs unrelated to mental health is not germane; thus, to a bill reported from the Committee on Energy and Commerce relating to mentally ill individuals, an amendment prohibiting the use of general revenue-sharing funds (a matter within the jurisdiction of the Committee on Government Operations) to jurisdictions permitting the operation of homosexual male baths hazardous to the public health was held to be not germane, because it was within another committee's jurisdiction and not confined to the issue of mental health.

During consideration of H.R. 4055 (relating to protection and advocacy for mentally ill individuals) in the Committee of the Whole on Jan. 30, 1986,(10) the Chair sustained a point of order against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 18, insert after line 7 the following:

TITLE III—MISCELLANEOUS

SEC. 301. PUBLIC BATHS.

That no city, town, or other political jurisdiction may receive Federal revenue sharing funds under chapter 67 of title 31, United States Code, if it permits the operation of any public bath which is owned or operated by an individual who knows or has rea-

9. *Id.* at p. 5481.

10. 132 CONG. REC. 1052, 1053, 99th Cong. 2d Sess.

son to know that the bath is hazardous to the public health or who knows or has reason to know is used for sexual relations between males. . . .

MR. [HENRY A.] WAXMAN [of California]: The amendment is a prohibition for the expenditures of revenues under the Revenue Sharing Act. It is not germane to the legislation before us. . . .

MR. [WILLIAM E.] DANNEMEYER [of California]: . . . Mr. Chairman, since the bill before us now relates to a new program relating to the expenditure of funds to reduce the suffering and improve the care of the mentally ill, does it not seem logical that we would add an amendment that would reduce the incidence of a disease that is fatal?

THE CHAIRMAN:[11] The Chair is prepared to rule on the point of order.

General revenue sharing is a matter that is within the jurisdiction of the Committee on Government Operations. The bill in question deals with mental health, not all public health.

For the reasons advanced by the gentleman from California [Mr. Waxman], the point of order is well taken and is sustained.

Bill Authorizing Daylight-Saving Time in District of Columbia—Amendment Relating to Daylight-Saving Time in Other Jurisdictions

§ 4.105 To a bill authorizing the commissioners of the District of Columbia to establish daylight-saving time, an amendment relating to daylight-saving time as affecting "services in interstate commerce" was held to be not germane.

In the 80th Congress, during consideration of a bill[12] authorizing daylight-saving time in the District of Columbia, an amendment was offered providing that the establishment of such time for the District of Columbia should not be construed to require any change in time for services in interstate commerce.[13] A point of order was raised against the amendment, as follows:

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I make a point of order against the amendment on the ground it is not germane and covers interstate commerce as distinguished from local jurisdiction.

The Chairman,[14] in ruling on the point of order, stated:

The amendment offered by the gentleman from South Dakota goes beyond the jurisdiction of the District of Columbia, and is not germane. The point of order is sustained.

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11. William J. Hughes (N.J.).

12. S. 736 (Committee on the District of Columbia).

13. 93 CONG. REC. 4164, 80th Cong. 1st Sess., Apr. 28, 1947.

14. Gordon Canfield (N.J.).

Bill Amending Small Business Act—Senate Amendment Providing for Legal Fees for Parties Prevailing Against United States

§ 4.106 To a House bill narrowly amending the Small Business Act reported from the Committee on Small Business, a Senate amendment adding a new title providing for the payment of attorney fees and other court expenses to parties prevailing against the United States in court litigation and amending title 28 (within the jurisdiction of the Committee on the Judiciary) was held not germane (pending a motion to recede and concur in the Senate amendment with an amendment including such provisions, after the conference report on the bill had been ruled out of order).

The proceedings of Oct. 1, 1980, relating to H.R. 5612 (addressing small business assistance and reimbursement for certain fees), are discussed in § 26.26, infra.

House Bill Concerning Foreign Relations and Operation of State Department and Other Agencies—Senate Amendment To Provide Guidelines for Acceptance of Foreign Gifts

§ 4.107 To a House bill containing diverse amendments to existing laws within the jurisdiction of the Committee on International Relations, relating to foreign relations and the operation of the Department of State and related agencies, a portion of a Senate amendment thereto contained in a conference report, amending the Foreign Gifts and Decorations Act (within the jurisdiction of the same committee) to provide guidelines and procedures for the acceptance of foreign gifts by United States employees and to provide that the House Committee on Standards of Official Conduct adopt regulations governing acceptance by Members and House employees of foreign gifts, was held germane when a point of order was raised against a portion of the conference report under Rule XXVIII clause 4.

During consideration of the conference report on H.R. 6689[15] in the House on Aug. 3, 1977,[16] the Speaker Pro Tempore overruled a point of order in the circumstances described above. The proceedings were as follows:

FOREIGN GIFTS AND DECORATIONS

Sec. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

§ 7342. Receipt and disposition of foreign gifts and decorations

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission . . .

"(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress . . .

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House . . .

"(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees . . .

"(b) An employee may not—. . .

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States. . . .

MR. [BRUCE F.] CAPUTO [of New York]: Mr. Speaker, a point of order.

I would like to make a point of order and I regret that it comes at so late an hour and after the previous discussion. I make the point of order that the matter contained in section 515 of the conference report would not be germane to H.R. 6689 under clause 7 of rule XVI if offered in the House and is therefore subject to a point of order under clause 4 of rule XXVIII.

Let me state that the language in the conference report substantially changes the terms under which the Members of Congress can accept or authorize acceptance of things of value from foreign governments.

The Constitution clearly provides in article I that each House shall write its own rules. The House has a rule of its

15. The Foreign Relations Authorization Act for fiscal year 1978.

16. 123 CONG. REC. 26532, 26533, 95th Cong. 1st Sess.

own on this matter, rule 44, which we only recently modified, under which Members of Congress could receive things of value from foreign governments.

The conference report changes that rule because it is a subsequent act of this House and in direct conflict with that rule. In Jefferson's Manual, section 335 and Deschler's Procedures, chapter 5, that is clearly improper. We cannot change the rules of the House in that manner. Let me read from Jefferson's Manual, section 335 briefly. It says:

> But a committee may not report a recommendation which, if carried into effect, would change a rule of the House unless a measure proposing amendments to House rules has initially been referred to the Committee of the Whole by the House.

This has not been referred to the Committee of the Whole by the House as required by the precedents. Indeed, this is the first time the House has viewed this matter and it would have been impossible for us to have referred it to the Committee of the Whole. It was put in by the other body. We never considered it.

If the Chair does not sustain my point of order, he will be in effect sustaining the other body in writing the rules of this House. . . .

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, clause 4 of House rule 43 deals only with gifts to employees. It does not deal with gifts of foreign governments, which is the subject of this amendment.

Furthermore, Mr. Speaker, we have specifically provided that nothing in this section shall be construed in derogation of any regulations prescribed by any Member or agency, and in this instance it would be the Congress or the Ethics Committee, which provides for more stringent limitations on the receipt of gifts and declarations by employees.

We are dealing with this in this amendment, because it deals with the foreign gifts and declarations section which affects other members of the Government not having anything to do incidentally with Members of the House and in no way changes the rules of the House.

MR. CAPUTO: Mr. Speaker, on page 21 of the committee report, section 515 says such act is amended and then it says, "a Member of Congress." It clearly applies to Members of Congress.

Let me state what it does. It permits Members of Congress to accept gifts of more than minimum value.

Page 22, section (c)(1)(B) clearly changes rule 24.

THE SPEAKER PRO TEMPORE:[17] The Chair is ready to rule.

The gentleman from New York makes a point of order that the conference report contains, in section 515, matter contained in the Senate amendment which would not have been germane to the bill if offered in the House.

Section 515 amends the Foreign Gifts and Declarations Act to provide new guidelines and procedures relating to the acceptance by employees of the United States of gifts and awards from foreign governments. The section provides that the Committee on Standards of Official Conduct shall have the func-

17. Dan Rostenkowski (Ill.).

tions of regulating the minimum value of an acceptable gift for Members and employees of the House of Representatives, of consenting to the acceptance by Members and employees of gifts in certain circumstances, and of disposing of unacceptable gifts through the General Services Administration. H.R. 6689, the Foreign Relations Authorization Act, as passed by the House, contained a wide variety of amendments to existing laws within the jurisdiction of the Committee on International Relations relating generally to the foreign relations of the United States and the operations of the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. It thus appears to the Chair that an amendment to the Foreign Gifts and Declarations Act, a law within the jurisdiction of the committee and relative to our foreign relations, would have been germane to the bill if offered in the House, particularly since section 111 of the House bill dealt with foreign employment by officers of the United States notwithstanding article I, section 9 of the Constitution. The Foreign Gifts and Declarations Act arose from the identical constitutional provision. The fact that the Senate amendment placed new responsibilities on a standing committee of the House does not render the provision subject to a point of order, since no attempt is made to amend the rules of the House or to otherwise exceed the jurisdiction of the Committee on International Relations.

For the reasons stated, the Chair overrules the point of order.

Parliamentarian's Note: The point of order was based on the grounds that the provision had the effect of amending the Rules of the House, to allow the acceptance of gifts prohibited by House Rule 43, the Code of Official Conduct. The actual effect of the provision, however, was merely to assign the regulatory authority under the Act in relation to the House of Representatives, not to supersede a more restrictive standard imposed by the Rules or standards of the House of Representatives.

Increased Salaries for Members—Amendment Affecting Audits in House

§ 4.108 To a bill reported from the Committee on the Post Office and Civil Service providing in part for increased salaries for Members of Congress and legislative employees, an amendment proposing changes in the Accounting and Auditing Act and relating to procedures governing audits of financial transactions of the House of Representatives and the Architect of the Capitol was held to be not germane as within the jurisdiction of another House committee (Government Operations).

In the 88th Congress, during consideration of a bill[18] relating to salary increases for federal officers and employees, the following amendment was offered:[19]

> Amendment offered by Mr. Oliver P. Bolton on page 40, immediately following line 4, insert the following:
>
> Sec. 203. Section 117 of the Accounting and Auditing Act of 1950 (64 Stat. 837; 31 U.S.C. 67)) is amended by adding at the end thereof the following new subsection:
>
> "(c) Except as otherwise provided by law, the Comptroller General in auditing the financial transactions of the House of Representatives and of the Architect of the Capitol shall make such audits at such times as he may deem appropriate. For the purpose of conducting such audits, the provisions of section 313 of the Budget and Accounting Act (42 Stat. 26; 31 U.S.C. 54) shall be applicable to the legislative agencies under audit. . . ."

A point of order was raised against the amendment, as follows:

> MR. [JAMES H.] MORRISON [of Louisiana]: Mr. Chairman, the amendment is not germane and has nothing to do with pay raises. It was not discussed in our committee. It covers a subject completely outside the provisions of the bill. It is not contemplated within the title of the bill.

In defense of the amendment, the proponent stated, as follows:[20]

> MR. OLIVER P. BOLTON [of Ohio]: . . . The bill deals with the salary of the Members of the House. My amendment would go toward the accounting for those expenditures of the House which if they were not expended by the House would well be considered salary.

The Chairman,[21] in ruling on the point of order, stated:

> The subject matter of the pending bill pertains to salaries of various governmental employees and not to accounting. The amendment that the gentleman from Ohio offers is, in effect, the same as a bill which he has introduced that was referred to the Committee on Government Operations. The subject matter of the bill and of the gentleman's amendment pertains to accounting, which comes under the jurisdiction of the Committee on Government Operations and not under the jurisdiction of the Committee on Post Office and Civil Service.

New Office Within Department of Justice—Amendment To Abolish Department of Justice

§ 4.109 To a bill reported by the Committee on the Judiciary, creating a new Office of Criminal Justice within the Department of Justice, an

18. H.R. 8986 (Committee on Post Office and Civil Service).

19. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

21. Chet Holifield (Calif.).

21. Chet Holifield (Calif.).

22. H.R. 5037 (Committee on the Judici-

amendment abolishing the Department and transferring its functions to a new independent agency outside the Cabinet, a matter within the jurisdiction of the Committee on Government Operations, was ruled out as not germane.

In the 90th Congress, during consideration of the Law Enforcement and Criminal Justice Assistance Act of 1967,[22] the following amendment was offered:[23]

> Amendment offered by Mr. [William E.] Minshall: On Page 25, strike out lines 5 through 15, and insert the following:
>
> Sec. 401. (a) There is hereby established as an independent agency of Government an Office of Justice which shall be headed by an Attorney General who shall be appointed for a term of 15 years by the President by and with the advice and consent of the Senate. The Attorney General, in the performance of his duties, shall not be subject to the direction or supervision of the President, nor shall he be a member of his Cabinet.
>
> "(b) There are hereby transferred to the Attorney General of the Office of Justice all functions exercised by the Department of Justice on the date of enactment of this Act, including all functions provided for in this Act. Such personnel, property, and unexpended balances of appropriations as the Director of the Bureau of the Budget determines relate primarily to functions transferred by this Act shall be transferred to the Office of Justice.
>
> "(c) The Department of Justice, the office of Attorney General in such Department, and all other offices provided for by law in such Department are hereby abolished.
>
> "(d) Effective date of this section will be March 1, 1969."

In ruling on a point of order raised against the amendment, the Chairman[24] stated:

> The amendment offered by the gentleman from Ohio [Mr. Minshall] proposes the abolishment of the Department of Justice and the transfer of its functions to a newly created Office of Justice. . . .
>
> The gentleman from New York [Mr. Celler] has raised the point of order that the amendment is not germane to the bill under consideration.
>
> The bill now before the Committee of the Whole bestows certain new functions, authority, and responsibilities on the Attorney General. It creates, within the Department of Justice, a new Office of Law Enforcement and Criminal Justice. It does not reorganize the existing structure of the Department.
>
> The amendment offered by the gentleman from Ohio is, in effect, a plan for governmental reorganization, and as such would not be within the jurisdiction of the Committee on the Judiciary, which reported this bill. This is one argument against considering the amendment germane.

22. H.R. 5037 (Committee on the Judiciary).

23. 113 CONG. REC. 21845, 90th Cong. 1st Sess., Aug. 8, 1967.

24. Daniel D. Rostenkowski (Ill.).

The Chair feels that the situation presented by this amendment is analogous to that presented when a bill amendatory of existing law in one particular is sought to be amended by a repeal of the law. In those cases, decisions are uniform to the effect that the amendments are not considered germane—volume [Cannon's Precedents] VIII, sections 2948–2949.

The Chair does not feel that the amendment is within the scope of the bill before the Committee of the Whole. It relates to a subject not under consideration at this time. The Chair therefore sustains the point of order.

§ 5. Fundamental Purpose of Amendment as Test

In determining whether an amendment is germane, it is often useful—especially when the amendment is in the nature of a substitute for the pending text—to consider whether its fundamental purpose is related to the fundamental purpose of the bill to which offered.

The Speaker or Chairman considers the stated purposes of a bill and the amendment, although not the motive or intent of the proponent of the amendment which circumstances might suggest, in ruling on the germaneness of a proposed amendment.(25) If the purpose or objective of an amendment is different from that of the bill to which it is offered, the amendment may be held not to be germane. For example, it is generally held that, to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane.(26) An amendment offered to a revenue bill is not germane if it proposes a tax for any other purpose than that of raising revenue.(27) Moreover, to a bill relating to the minting and issuance of public currency, amendments providing for minting a coin for a private purpose(28) or for a commemorative or collector's coin(29) have been held to be not germane.

On the other hand, the fact that a provision in a bill and a proffered amendment to that provision have a common purpose or objective is not conclusive as to the amendment's germaneness, especially where the two approaches are dissimilar.(30)

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25. See § 3.45, supra, and § 5.5, infra. See also, generally, § 6, infra, which discusses amendments that contemplate methods different from those of the bill to be used in achieving the objectives of the bill.

26. See § 5.29, infra.

27. See § 5.11, infra.

28. See § 5.27, infra.

29. See § 5.28, infra.

30. See § 5.8, infra, and § 6, generally.